



SMALL BUSINESS ADMINISTRATION

13 CFR Part 130

[Docket No. SBA-2015-0005]

RIN 3245-AE05

Small Business Development Centers

AGENCY: U.S. Small Business Administration.

ACTION: Proposed rule.

SUMMARY: This rule proposes revisions to Small Business Development Centers Program (the SBDC Program or the Program) regulations to align with current policy and guidance from the U.S. Small Business Administration (SBA or the Agency) and to incorporate updates to uniform administrative requirements, cost principles, and audit requirements for Federal awards (Uniform Guidance). This proposed rule also includes policy and procedural changes identified by the Agency as necessary to preserve the integrity and legislative intent of the Program.

DATES: To be assured of consideration, written comments must be postmarked on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: In order to ensure proper receipt, written comments must be submitted through one of the following methods only. You may submit comments, identified by RIN 3245-AE05 by one of the following methods:

- *Preferred method:* Federal eRulemaking Portal at <https://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Mail:* Comments should be addressed to Rachel Karton, Program Manager, Small Business Development Centers, U.S. Small Business Administration, 409 Third Street SW, Room 6253, Washington, DC 20416.

Comments sent by other methods not listed above will not be accepted and subsequently, not posted. All comments submitted in response to this proposed rule will be included in the record and will be made available to the public. Duplicate comments are not considered. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. SBA will make the comments publicly available on the Internet via <https://www.regulations.gov>.

If you wish to submit Confidential Business Information (CBI) as defined in the user notice at www.regulations.gov, you must submit such information to the U.S. Small Business Administration, Rachel Karton, Program Manager, Small Business Development Centers, 409 Third Street, SW, Room 6253, Washington, DC 20416, or send by email to sbdcregs@sba.gov. Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review your information and determine whether it will make the information public.

FOR FURTHER INFORMATION CONTACT: Rachel Karton, Program Manager for the SBDC Program, at 202-205-6766 or rachel.newman-karton@sba.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory

The SBDC Program was authorized in 1980 by the Small Business Development Centers Act of 1980 (Pub. L. 96-302, 94 Stat. 833) and is currently codified in section 21 of the Small Business Act, 15 U.S.C. 648 (the Act). According to the Act, the purpose of the Program is to assist in establishing SBDCs explicitly to provide “management and technical assistance” to small businesses. Section 21(a)(3)(A) requires SBA to consult with the recognized association of SBDCs in any rulemaking action for the Program.

B. History

Title II of the Small Business Development Act of 1980, authorized the SBDC Program at an initial annual funding level of \$8.5 million. The new law specifically provided for Federal funding to be matched one-for-one with non-Federal funds and required an evaluation of the Program to be submitted to Congress by January 31, 1983.

SBA's Associate Administrator, Small Business Development Centers (AA/SBDC) holds statutory responsibility for the general management and oversight of the SBDC Program by means of a cooperative agreement with each recipient organization. A recipient organization is an institution of higher education or state agency which receive Federal funds to operate an SBDC. Through these recipient organizations, the SBDC Program is made available to the American public to provide small businesses and aspiring entrepreneurs with a wide array of technical assistance, strengthening business performance and sustainability, and enabling the creation of new business entities.

The SBDC Program regulations were revised in 1995, see 60 FR 31504 (June 13, 1995). The statute authorizing the SBDC Program has since been amended numerous times. The annual notice of funding opportunity has become, for all practical purposes, the document which interprets statutory requirements of the Program and aligns them with current policies and procedures. To maintain consistency in Program administration and implementation, it is necessary to revise the regulations to outline current policies and procedures. Many of the proposed changes are enforced through the current notice of funding opportunity. Therefore, SBA is proposing to revise Program regulations to incorporate those changes for efficiency and transparency of the SBDC Program.

SBA published an advanced notice of proposed rulemaking (ANPRM) was published on April 2, 2015, at 80 FR 17708, seeking comments on the development of new definitions, clarification of existing program requirements, and the renewal or termination of the notice of award. The ANPRM also solicited comments on international trade counselor certification requirements, required steps for the selection of Lead Center Directors, procedures for

international travel, and procedures regarding the determination to effect suspension, termination or nonrenewal of an SBDC's cooperative agreement.

SBA received 133 comments on this ANPRM, which have been considered during the development of this proposed rule. Comments received generally fell into four categories: the role of the District Office, definitions/clarifications, client confidentiality, and the Lead Center Director hiring process. First, SBA proposes to clarify and define the role of the District Office regarding grant oversight activities by proposing new definitions and procedures throughout program regulations. Second, SBA proposes the addition of 23 new definitions and the revision of existing definitions to explicitly define and clarify the various roles, procedures, documents, and categories of funding. Third, a new section is proposed to codify SBDC client confidentiality requirements under the Act. Finally, the rule proposed to add the current process of hiring a Lead Center Director, as outlined in the cooperative agreement. The intent of these changes would be to make Program operations more streamlined and less onerous for recipient organizations and the Agency and to align with current practices required under the notice of funding opportunity and cooperative agreement. The majority of the proposed changes made, which were discussed in comments received through the ANPRM are already required and implemented by the SBDCs; however, these proposed regulations would codify existing requirements to ensure consistency in Program regulations.

Through the ANPRM, the Agency also sought feedback on its existing collection and use of individual SBDC client data.

This proposed rule also incorporates the Uniform Guidance at 2 CFR part 200, which streamlined and consolidated government requirements for receiving and using Federal awards to reduce administrative burden and improve outcomes. The Uniform Guidance was published in the Federal Register (79 FR 75871) on December 19, 2014, and became effective for new and continuation awards issued on or after December 26, 2014.

C. Section-by-Section Analysis

Section 130.100 Introduction

SBA proposes to add a paragraph providing a broad overview of the Program and purpose. SBA believes that this will provide clarity.

Section 130.110 Definitions

This section proposes to add 23 new definitions to clarify and codify current District Office responsibilities, State/Lead Center Director responsibilities, and define other terms already in use in the notice of funding opportunity.

Section 130.200 Eligible entities

As required in the Small Business Act, 15 U.S.C. 656 and 648(a)(1), this section proposes to add a Women's Business Center operating pursuant to section 29 of the Small Business Act as an entity eligible to apply to be a Lead Center SBDC. This section also proposes to add eligibility criteria for the Commonwealth of the Northern Mariana Islands.

Section 130.300 Small Business Development Centers (SBDCs)

This section would codify the statutory authority for the Administrator to operate and administer the SBDC Program through cooperative agreements issued to recipient organizations, as established under the Small Business Act.

Section 130.310 Area of service

This section proposes to require service centers to be primarily housed within institutions of higher education or a Women's Business Center operating pursuant to section 29 of the Small Business Act, under paragraph (c).

Section 130.320 Operating requirements

This section proposes to add five requirements already in use in the notice of funding opportunity as paragraphs (d) through (g) of the section to standardize SBDC naming/branding nationwide and enhance the current conflict of interest policy as follows:

- The name of the Lead SBDC must contain the official identification of “Small Business Development Center” and that, unless waived by the AA/SBDC, the SBDC has one year from the date of promulgation to make any necessary changes;
- Any entity operating as an SBDC service center, whether receiving Federal funding or not, is now considered a part of the recipient organization’s network and is required to report its goals, achievements, etc. as any other service center;
- The process to obtain the minimum number of required staff members for international trade assistance as required by the Act; and
- The requirement for every SBDC to annually sign the conflict of interest form and to have a policy, which addresses how the recipient organization will deal with competing and conflicting issues.

Section 130.330 SBDC services and restrictions on service

SBA proposes to provide an overview of the services that an SBDC must provide to prospective entrepreneurs and existing small businesses and the related reporting requirements. Further, SBA proposes to require the SBDC network work with other state and local government programs providing assistance to small businesses and potential small business. This change will provide clarity and transparency to the regulations and is consistent with the notice of funding opportunity.

Section 130.340 Specific program responsibilities

This section proposes to clarify the responsibilities of the AA/SBDC and the SBDC Lead Center Director (Lead Center Director). Currently, this section refers to SBA as the entity making decisions or determinations. The proposed rule would distinguish between AA/SBDC and the District Director to provide for more transparent identification of roles and responsibilities for the public.

Section 130.350 SBDC advisory boards

This section would replace the words “shall” and “may” with “must” and “will” and imposes term limits and language to provide guidance to the boards, consistent with the cooperative agreement.

Section 130.360 Selection of the SBDC Lead Center Director

This section would codify the current selection process, for SBDC Lead Center Director utilized by SBDCs.

Section 130.370 Contracts with other Federal agencies

This section proposes to codify the requirements process for an SBDC to enter a contract with another Federal agency.

Section 130.380 Client privacy

Section 21(a)(7) of the Act requires SBDCs and the Administration to protect the privacy of any individual or small business receiving assistance in the Program. Under this proposed rule, an SBDC, including its contractors and other agents, would not be permitted to disclose to an entity outside the individual SBDC, the name, address, email address, or telephone number, referred to as “client contact data” of any individual or small business without the consent of such individual or small business, unless such disclosure meets on the three exceptions discussed below.

The three exceptions, as authorized by the Act, would permit disclosure if: (1) a court orders the Administrator to disclose the information in any civil or criminal enforcement action initiated by a Federal or state agency; or (2) the Administrator considers such a disclosure to be necessary for the purpose of conducting a financial audit of a center, not including those required under § 130.830, as determined on a case-by-case basis when formal requests are made by a Federal or state agency. Such formal requests must justify and document the need for individual client contact and/or Program activity data to the satisfaction of the Administrator; or (3) SBA requires client contact data to directly survey SBDC clients.

This rule would require SBDCs to provide an opportunity for clients to opt in to allow SBA to obtain their contact data. SBA's use of client contact data would be restricted only to conduct survey and studies that help stakeholders better understand how the services the client received affect their business outcomes over time. These surveys or studies would include, but not be limited to, program evaluation and performance management studies.

Under this proposed rule, the agency would not allow use of client contact data for any other purpose beyond program surveys or studies.

This proposed rule would also prohibit the denial of services to clients solely based on a client's refusal to provide consent to use their contact data for study purposes.

Section 21(a)(7)(C) of the Act directs the Agency to publish standards for requiring disclosures of client information during a financial audit. Other Federal or state agencies making such disclosure requests would be required to submit formal requests including a justification for the need for individual client contact and/or Program activity data for the Administrator's review on a case-by-case basis. Public comments on these proposed standards are encouraged.

This proposed rule would also codify the current privacy protections in place in the Program employed by the Agency. Any reports on the Program produced by an SBDC, including its contractors and other agents, and the Agency, could not disclose individual client information without consent from the client. Any such reports could only report activity data in the aggregate, unless given consent, to protect the individual privacy of clients.

Section 130.400 Application procedure

Currently, this section is not used. This section would require all SBDC applicants to comply with the current annual notice of funding opportunity procedures for their new or renewal applications to receive consideration. This proposed rule would reinforce that an SBDC applicant must follow procedures for submitting a new or renewal application, to clarify the application procedures.

Section 130.410 New applications

Currently, this section outlines outdated procedures that are no longer enforced. This proposed rule would codify the current new application procedures utilized by SBDCs, which require applicants to be located in the same state/region where the SBDC is located. This section also proposes new recruitment and selection procedures for new recipient organizations.

Section 130.420 Renewal applications

Currently, this section outlines outdated procedures that are no longer enforced. This proposed rule would revise the existing renewal and nonrenewal process to reflect the process currently utilized by SBDCs. Factors of consideration in the renewal application under paragraph (c) would be expanded to include corrective measures implemented as a result of examinations conducted; and the accreditation provision of § 130.810(c), including any conditions, recommendations from the accreditation report, and corrective measures implemented, affecting the recipient organization and the SBDC network.

Section 130.430 Application decisions

This proposed rule would clarify and make transparent the existing approval process of an application by outlining the options to grant approval, conditional approval, or denial of an application.

Section 130.440 Maximum grant

This proposed rule would codify the limitations on grant funding set forth in section 21(a)(6)(C) of the Act and the exceptions set forth under paragraph (b). The legislative language was revised in this codification to be clear and transparent.

Section 130.450 Matching funds

This proposed rule would expand and clarify the requirements on matching funds for cash, in-kind, or authorized indirect funds so that it is clearer and more transparent.

Under this proposed rule, paragraph (c) would be added to clarify matching requirements for insular territories.

Paragraph (d) would codify the requirement for all applicants to submit a certification of cash match and program income, currently required by the notice of funding opportunity.

Paragraph (e) would require all matching funds, in addition to the Federal and Program income funds, to be under the direct management of the SBDC State/Region Director.

Paragraph (g) would expand the list of unallowable sources of matching funds.

Section 130.460 Budget justification

This section proposes to add the current budget justification procedures used by SBDCs, as required by the notice of funding opportunity. In accordance with 2 CFR part 200, the SBDC would be required to have the prior approval from the Agency for the purchase of equipment, either through a specific disclosure in an annual cost proposal or through an approved amendment to an existing cooperative agreement.

This proposed rule would also outline procedures for foreign travel requests. Specifically, all foreign travel requests would be required to be submitted to the appropriate District Director and the Office of Small Business Development Centers (OSBDCs) Program Manager for review and then to the AA/SBDC for final approval.

Paragraph (i) would be revised to allow dues to the recognized association to be charged to the cooperative agreement.

Section 130.465 Restricted and prohibited costs

Under this proposed rule, this new section would prohibit the use of Federal funds, matching funds and program income as required under the cooperative agreement for the purposes identified as unallowable in applicable sections of 2 CFR part 200. Currently regulations do not restrict the use of these above cited funds. These proposed changes, in accordance with 2 CFR part 200, would ensure that program funds are not used by recipient organizations for the purpose of sub-grants, or as seed money for venture capital, or for other purposes outside the scope of authorized SBDC activities.

Section 130.470 Fees

This section proposes to prohibit SBDC network entities, staff, consultants, or volunteers to solicit or accept fees or other compensation for counseling services, including, but not limited to, business or marketing plan development, loan packaging or credit application assistance, or other advisory services described in the Act. SBA proposes to add a second paragraph to codify, clarify and make more transparent the intent of the section.

Section 130.480 Program income

This section proposes to codify the existing requirement that SBDCs may not report program income as a matching resource. Further, unused program income is permitted to be carried over to the subsequent budget period by the SBDC network; however, the aggregate amount of network program income cannot exceed 25 percent of the total SBDC budget (Federal and matching expenditures). The intent of the section remains the same; however, it is revised to make it clearer and more transparent.

Section 130.490 Property standards

This rule proposes to create a new section to require the SBDCs to adopt and implement the respective Office of Management and Budget (OMB) guidelines for property standards.

Section 130.500 Advances and reimbursements

Current regulations outline the process for SBDC submission of reimbursement requests and advancements. Under this rule, the language of this section is revised to provide clarity and transparency. The intent of the section remains the same.

Section 130.600 Cooperative agreement

Currently, this section is not used. This section proposes to codify program requirements currently enforced through the notice of funding opportunity and followed by the SBDCs.

Under this proposed rule, paragraph (a) would require that a recipient organization will incorporate the cooperative agreement into its SBDC sub-agreements and contracts, which is already being done by the SBDCs.

Paragraph (b) would clarify that SBA will not direct or otherwise approve any sub-agreements entered by the recipient organization with service centers, vendors, or contractors.

Paragraph (c) would outline procedures for developing performance goals and measurements, negotiating the goals and measurements, and consequences of not meeting those goals and measurements. Also, SBA loan goals would not be negotiated or incorporated into the cooperative agreement without the written approval of the AA/SBDC.

Paragraph (d) would outline contracting procedures and require SBDCs to follow the related guidelines set forth in 2 CFR part 200.

Section 130.610 Grant administration and cost principles

This section proposes to add new paragraphs (b) and (c) for clarification and transparency. Paragraph (b) proposes to codify 2 CFR part 200 requirements applicable to grant administration and cost principles for both the recipient organizations and service center organizations.

Paragraph (c) would codify SBA's authority to propose additional requirements, beyond those set forth in both the uniform grant administrative requirements and cost principles, where necessary to ensure the effective and efficient management of the SBDC Program.

Section 130.620 Revisions and amendments to cooperative agreements

This section proposes to revise paragraph (a) by outlining required prior approval requests by SBDCs for revisions to the cooperative agreement and add a new paragraph (b) for clarity and transparency. As is current practice, paragraph (b) would authorize the AA/SBDC to amend one or more cooperative agreements to authorize unanticipated out-of-state travel by SBDC personnel responding to a need for services in a Presidentially Declared Major Disaster Area and to address how travel costs are to be handled. Paragraph (b) would authorize SBA to provide financial assistance to SBDCs, or any proposed consortium of such individuals or entities, to spur disaster recovery and growth of small business concerns located in an area for which the President has declared a major disaster.

Section 130.630 Dispute resolution procedures

This section proposes to clarify the existing procedures for a financial dispute or a programmatic or non-financial dispute for clarity and transparency. The intent of this section remains the same.

Section 130.700 Suspension, termination, and non-renewal

This section proposes to revise and clarify the procedures for suspension, termination or non-renewal for clarity and transparency. Under this proposed rule, paragraphs (b)(11) through (15) would be added for efficiency and transparency.

Paragraph (a)(1) would clarify the current termination process of an SBDC. Under this proposed rule, the termination would be immediately enforced on the date of the notice of termination. The recipient organization would not incur further obligations under the cooperative agreement after the date of termination, unless otherwise expressly stated to do so. The award funds would not be available for obligations incurred after the effective date of termination, unless expressly authorized under the notice of termination. The recipient organization would have 120 days to submit final closeout documents to SBA.

Paragraph (a)(2) would allow the recipient organization to continue to conduct project activities and incur allowable expenses until the end of the current budget period in instances when the SBA has elected to not to renew a cooperative agreement. Under this proposed rule, if a recipient organization does not seek to renew the grant, it must notify the District Office and send a letter of intent to withdraw to the AA/SBDC.

Paragraph (a)(3) would add the sentence, “A decision to suspend a cooperative agreement is effective immediately.” Under this proposed rule, the notice of suspension would recommend that the recipient organization cease work on the project immediately and would place SBA under no obligation to reimburse any expenses incurred by a recipient organization while it is under suspension.

Under this proposed rule, paragraph (b)(11) through (15) would be added for clarity and transparency on the causes for termination or suspension.

Currently the administrative procedure for suspension, termination, and non-renewal is found in the cooperative agreement. Under this proposed rule, the new administrative procedures are outlined under paragraph (c) as well as the responsibilities of the AA/SBDC in these circumstances.

Under this proposed rule, paragraph (d) is added to outline the administrative review of suspension, termination, and non-renewal actions as well as the required process for SBDCs to submit the request for administrative review.

Section 130.800 Oversight of the SBDC Program

This section would be revised to clarify the existing broad language used to outline program oversight requirements by adding three new paragraphs.

Section 130.810 SBA review authority

This rule proposes to revise paragraph (c) to reiterate 15 U.S.C. 648(k)(2) of the Small Business Act and proposes to state that SBA may not renew or extend any cooperative agreement with an SBDC unless the center has been approved under the accreditation program, except that the AA/SBDC may waive such accreditation requirement, at their discretion, upon showing that the center is making a good faith effort to obtain accreditation. This section proposes to clarify and provide more detail on the review authority provided to SBA regarding the SBDC Program.

Section 130.820 Records and recordkeeping

This rule proposes to revise the existing broad instructions on records and recordkeeping requirements for an SBDC to provide clarity and transparency. The proposed revisions include more narrow instructions to clarify each required step in the current process.

Section 130.825 Reports

This rule proposes to require SBDCs to submit performance and financial reports to SBA for review, as currently required by the notice of funding opportunity. The proposed revisions outline the frequency of the reporting, electronic data reporting which includes counseling and training records, and specific details for each of the performance reports and financial reports.

Section 130.830 Audits and investigations

Current regulations provide general but outdated, compliance instructions to the SBDCs regarding audits and investigations performed by SBA's Office of Inspector General. This section would be updated and revised with more specific and clear instructions.

Section 130.840 Closeout procedures

Current regulations do not include closeout procedures; rather, these are found in the cooperative agreement. Under this proposed rule, this new section would be added to outline closeout procedures for the recipient organization to ensure that program funds and property acquired or developed under the SBDC cooperative agreement are fully reconciled and transferred seamlessly between recipient organizations, service centers, or other Federal programs.

D. Comments request

SBA invites interested persons to submit written comments on this proposed rule. Your written comments on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason(s) for any change you recommend or proposal(s) you oppose. Where possible, you should reference the specific section or paragraph of the proposal you are addressing. We invite specific comments on various aspects of the rule as described in this preamble.

Readers are encouraged to closely review each section of the proposed rule in conjunction with current regulations to fully comprehend the extent of the rule and its changes. SBA invites comment on all aspects of this proposed rule, including the underlying policies.

Submitted comments will be viewable on Regulations.Gov by searching under the Docket Number (SBA-2015-0005) or the Regulation Identifier Number (RIN 3245-AE05).

Compliance with Executive Orders 12866, 12988, 13132, and 13563, the Paperwork Reduction Act (44 U.S.C. Ch. 35), the Congressional Review Act (5 U.S.C. 801-808), and the Regulatory Flexibility Act (5 U.S.C. 601-612)

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this proposed rule is a "significant" regulatory action for the purposes of Executive Order (E.O.) 12866. Accordingly, the next section contains SBA's Regulatory Impact Analysis.

Regulatory Impact Analysis

Regulatory Impact Analysis

1. Is there a need for this regulatory action?

The SBDC rules were last revised in 1995 (see 60 FR 31504) (June 13, 1995). However, the statute authorizing the SBDC Program has been amended numerous times since the last rulemaking (for a full listing of amending legislation, see the history notes at 15 U.S.C. 648). For example, SBA proposes to update the regulation as required by section 21(a)(7) of the Small Business Act to protect the privacy of any individual or small business receiving assistance in the Program.

SBA believes it is now necessary to revise the regulations to outline current policies and procedures for the SBDC Program for consistency. This proposed regulation also incorporates the changes required by the 2 CFR part 200 and other grant changes that have taken place over the last 25 years. Additionally, the America's Small Business Development Centers (ASBDC), the recognized association as established in section 21(a)(3)(A), has requested changes that are consistent with the revisions made in the notice of funding opportunity and cooperative agreement. Furthermore, the SBA received 133 comments to the ANPRM that was published on April 2, 2015, some of which are incorporated in this proposed rule.

In the absence of this rule, there would be inconsistency between the regulations and Program governing documents, including the notice of funding opportunity and the cooperative agreement. Currently, SBA and the SBDCs reference three or more documents to find guidance on the Program, and the annual notice of funding opportunity and cooperative agreement have become, for all practical purposes, documents which interpret the statute. Also, SBA has limited authority to hold SBDCs accountable for low or non-performance. While low or non-performance is a rare occurrence, SBA's only current recourse is to write conditions into the SBDC notice of award. The proposed rule would strengthen SBA's oversight and accountability, as intended by Congress, and reduce burden by consolidating programmatic guidance to one document.

2. What are the potential benefits and costs of this regulatory action?

The potential benefits of this proposed rule are based on incorporating all the changes that have been made with the publication 2 CFR part 200, other grant changes over the past 20 years, and a streamlining of both the notice of funding opportunity and the cooperative agreement. Specifically, the rule provides guidance on the determination of the official name of the SBDC; directs minimum reporting for, and hiring of, State Directors; applying for other grants/other sources of funds; clarifies Project Officer responsibilities; clarifies matching funds, such as in-kind funds; funding expenditures; eligible entities budget justification; provides guidance regarding the collection and use of individual SBDC client data; adds new sections regarding suspension, termination, and non-renewal, payments and reimbursements, property standards, confidential information - among others.

The new regulations will simplify and streamline notice of funding opportunity language to contain only that information that the applicant organization must submit and not all the other information that will now be written into the regulations. Moreover, having the regulations in one document would make administering the Program by the SBDCs much easier by not having

to reference three or more different documents. The estimated reduction in burden to this consolidation is presented in the table below:

Table 1: Estimate of Savings to SBDCs

Outcomes	Number of Expected Occurrence Per Year (A)	Average time or money saved per Occurrence (B)	Total Annual Savings (A x B)
Provision of better information leading to better choices	62 SBDCs	4 hours at \$120.22 ¹ /hr = \$480.88	248 hours \$29,815
Increased efficiency from clarity and agreement with other related documents	62 SBDCs	2 hours at \$120.22 ¹ /hr = \$240.44	124 hours \$14,907
		Total Savings:	372 hours \$44,722

There are currently 62 SBDCs that would benefit from this new regulation. We estimate the changes to the rule will create a four-hour benefit per SBDC from better information leading to better SBDC choices because the revisions will clarify definitions and provide guidance on various issues. We estimate a two-hour increase in efficiency per SBDC from the clarity that the revisions to the rule will provide because the rule will be in agreement with the notice of funding opportunity and the cooperative agreement, leading to less confusion and streamlined processes due to consolidation of programmatic guidance. Using the average hourly wage of an SBDC State Director, the total annual benefit of these revisions comes to \$44,722 for all the 62 SBDCs. We anticipate that these benefits will be realized over perpetuity in that SBDCs will continue to experience better decision-making from the clarification and additional guidance provided and increased efficiency from only having to reference one document.

¹ Based on the most recently available data, from *2019 Salary Survey of America's SBDC*, hourly wage of a State Director (\$60.11) plus 100% for benefits. Salary Survey (americassbdc.org), p. 3.

There are also several benefits that cannot be quantified. One of these benefits is the increased security that the rule provides SBDCs through its requirements to protect the privacy of an individual or small business receiving assistance in the Program. Another benefit to revising and updating the regulations is that it would give SBA more authority to enforce the requirements as written in the regulations which is something currently lacking in the Program.

There are some costs incurred by the SBDCs in initially reading and interpreting the new regulation. There is an additional requirement for application procedures which currently only exists in the notice of funding opportunity. We estimate that this will add approximately two hours of burden for SBDCs. The SBDCs also must provide a certification of cash match and program income for which a requirement currently exists only in the notice of funding opportunity. Additionally, the rule would require SBDCs to submit performance and financial reports to SBA for review, as currently required by the notice of funding opportunity. These requirements are reflected in the most recent Information Collection Requests for the reporting requirements for SBDCs, so while reflected here, these requirements do not change the Paperwork Reduction Act cost burden. SBA staff must review these reporting requirements which we estimate will take SBA staff 30 minutes twice a year to review. These costs are summarized below:

Table 2: Estimate of Costs to SBDCs/SBA

	Amount of Time Required (A)	Value of Time (B)	Frequency Per Year (C)	Number of Businesses or Individuals Affected (D)	Total Annual Cost (A x B x C x D)
Read and interpret the regulation	2 hours	\$120.22 ¹ /hr	1	62 SBDCs	124 hours \$14,907
Reporting	2 hours	\$58.90 ² /hr	2	62 SBDCs	248 hours \$14,607

² Based on the most recently available data, from *2019 Salary Survey* of America's SBDC, hourly wage of an Accounting, Grants, and Finance Position of (\$29.45) plus 100 percent for benefits. Salary Survey (americassbdc.org), p. 12.

Reviewing Reports (SBA)	0.5 hours	\$137.10 ³ /hr	2	For 62 SBDCs	62 hours \$8,500
				Total Administrative Costs:	434 hours \$38,015

The undiscounted schedule of benefits and costs over the first three years of the rule (with the values in year three to continue in perpetuity) are presented in the following table:

Table 3: Schedule of Costs/(Savings) Over 3-Year Horizon

	Benefits	Costs
Year 1	372 hours	434 hours
	\$44,722	\$38,015
Year 2	372 hours	310 hours
	\$44,722	\$23,107
Year 3	372 hours	310 hours
	\$44,722	\$23,107

The annualized net savings of this proposed rule is \$20,640 with a 7 percent discount rate, assuming annual savings of \$44,722 in perpetuity and costs in the first year of \$38,015 and afterwards costs of \$23,107, in perpetuity.

3. What alternatives have been considered?

SBA considered two alternatives to this rulemaking. First would be using internal SBA guidance, such as Standard Operating Procedures (SOPs), to interpret existing rules. SBA also considered continued interpretation of program requirements through the cooperative agreement negotiation process. However, under the applicable statute, SBA must consult with the ASBDC when developing “documents: (i) announcing the annual scope of activities pursuant to this section, (ii) requesting proposals to deliver assistance as provided by this section, and (iii) governing the general operations and administration of the Small Business Development Centers

³ Based on the 2022 salary of a GS-14 step 5 analyst in the DC area plus 100 percent for benefits. SALARY TABLE 2022-DCB (opm.gov).

(SBDC) Program, specifically including the development of regulations and a uniform negotiated cooperative agreement for use on an annual basis when entering into individual negotiated agreements with small business development centers” (15 U.S.C. 648(a)(3)(A)).

In addition to this consolidation requirement, SBA values the input of the public. The rulemaking process would provide an opportunity for both the ASBDC and the public to comment on changes made to the Program. SBA also identified a need to streamline changes made to the notice of funding opportunity and cooperative agreement, and any changes in Federal grant procedures, since the Program regulations were last revised. Since this proposed rule is an all-encompassing revision of the current regulations, SBA does not believe that more extreme changes could be made at this time. Also, this statute specifically includes a direction for SBA to develop regulations for the SBDC Program with the ASBDC and SBDCs. For these reasons, SBA believes that proceeding with a rulemaking is the best approach to revise SBDC Program requirements at this time.

Summary

The changes proposed for this rule will not negatively affect access to the Program for small businesses or nascent entrepreneurs. All small business and nascent entrepreneurs will continue to have access to the full services provided by the SBDCs. In fact, there will be a de minimis cost savings realized by SBDCs because they will not have to reference multiple documents for guidance and the guidance in the rule will be more beneficial to SBDCs. There are also some non-quantifiable benefits such as increased privacy and the ability for SBA to enforce the requirements laid out in the rule. SBA invites comment from the public on the costs or savings assumed in this analysis.

Summary

The changes proposed for this rule will not negatively affect access to the Program for small businesses or nascent entrepreneurs. All small business and nascent entrepreneurs will continue to have access to the full services provided by the SBDCs. In fact, there will be a de minimis cost

savings realized by SBDCs because they will not have to reference multiple documents for guidance and the guidance in the rule will be more beneficial to SBDCs. There are also some non-quantifiable benefits such as increased privacy and the ability for SBA to enforce the requirements laid out in the rule. SBA invites comment from the public on the costs or savings assumed in this analysis.

Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. It is anticipated that this rule will not be a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA) will send the rule and the “Submission of Federal Rules Under the Congressional Review Act” form to each House of the Congress and to the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This rule is not anticipated to be a major rule under 5 U.S.C. 804.

Executive Order 12988

This action meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or preemptive effect.

Executive Order 13132

There are seven recipients that are grantees of the SBDC Program that are hosted by state economic development organizations. They are Colorado, Illinois, Indiana, Minnesota, Montana, Ohio, and West Virginia. All other grantees are hosted by institutions of higher education. This rule imposes no additional or special burdens on the state-based SBDCs. As mentioned above the grantees are currently abiding by these proposed regulations and 2 CFR part 200 as the requirements are already in the notice of funding opportunity and cooperative agreement. The recipient organizations apply or volunteer to participate in the Program and can withdraw at any time.

SBA has determined that this proposed rule will not have substantial, direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, for the purposes of Executive Order 13132, SBA has determined that this proposed rule has no federalism implications warranting preparation of a federalism assessment. However, SBA invites comments on issues relating to the federalism aspects of this proposed rule.

Paperwork Reduction Act, 44 U.S.C. Ch. 35

SBA has determined that this proposed rule would not impose additional reporting and recordkeeping requirements under the Paperwork Reduction Act (PRA). Currently, there are two PRA submissions associated specifically with the SBDC Program: (1) OMB control number 3245-0140 Cooperative Agreement; and (2) OMB control number 3245-0169, Federal Cash Transaction Report, Financial Status Report, Program Income Report, and Narrative Program Report. These will not change, and no new requirements are required in the proposed rule.

Regulatory Flexibility Act, 5 U.S.C. 601-612

When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (RFA) requires the agency to prepare an Initial Regulatory Flexibility Analysis (IRFA) describing the economic impact that the proposed rulemaking may have on small entities. Section 605 of the

RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

The proposed rule revises regulations to outline current policies and procedures for the SBDC Program. Specifically, the proposed rule will clarify and define the role of the District Office regarding cooperative agreement oversight activities by adding definitions and procedures throughout the proposed regulations. Second, SBA proposes to add 23 definitions that refine and explain various roles, procedures, documents, and categories of funding and proposes to revise other definitions for clarification. Third, a section is proposed to be added to codify SBDC client confidentiality. Finally, the current process of hiring a State/Region Director is outlined in an SBA policy notice; however, the proposed regulation proposes to codify and refine this process. Most of these proposed changes are already implemented by the SBDCs, and these proposed regulations are codifying them.

The proposed rule will impact 62 SBDCs that primarily fall into the North American Industry Classification System (NAICS) codes 611210 (junior colleges) and 611310 (colleges, universities, and professional schools). In addition, seven SBDCs are hosted by state economic development organizations, such as state Departments of Trade or Commerce.

A junior college is considered small if its annual receipts are \$28.5 million⁴ or less while colleges, universities, and professional schools are considered small if annual receipts are \$30.5 million or less. As shown in Table 2, only one SBDC can be considered small under both size standards. Note that these size standards do not apply to the seven SBDCs hosted by state organizations; however, state organizations under NAICS 92 (public administration) do not have applicable small business size standards but would not be considered small using the standards of NAICS codes 611210 or 611310.

Table 5: SBDC Size Standard by NAICS Code

NAICS Code	SBA Small Business Size Standard: Annual Receipts Threshold	Count
------------	----------------------------------------------------------------	-------

⁴ SBA Table of Size Standards.

Junior Colleges (611210)	Less than or equal to \$28.5 million	1
	Greater than \$28.5 million	7
Colleges, Universities, and Professional Schools (611310)	Less than or equal to \$30.5 million	0
	Greater than \$30.5 million	47
Public Administration (92)	No standard established	7
Total		62

The purpose of the rule is to codify existing practices and to provide consistency between regulations and the Program’s governing documents and practices. The Regulatory Impact Analysis presented earlier describes the costs and savings of the rule and the small net savings relative to the number of entities. Accordingly, the Administrator of the SBA, hereby, certifies to the Chief Counsel of Advocacy of SBA that this rule will not have a significant economic impact on a substantial number of small entities. SBA invites comment from the public on this certification.

RISE Act (Research Investment to Spark the Economy Act of 2021, H.R. 7308)

The Administrator may authorize an SBDC to provide advice, information, and assistance, as described in subsection (c) of the Small Business Act, to a small business concern located outside of the state, without regard to geographic proximity to the small business development center, if the small business concern is located in an area for which the President has declared a major disaster.

The Administrator may provide financial assistance to an SBDC, a Women’s Business Center described in section 29 of the Small Business Act, SCORE, or any proposed consortium of such individuals or entities to spur disaster recovery and growth of small business concerns located in an area for which the President has declared a major disaster.

List of Subjects in 13 CFR Part 130

Grant programs-business, Small businesses, Technical assistance.

For the reasons stated in the preamble, the Small Business Administration proposes to amend 13 CFR part 130 as follows:

PART 130 – SMALL BUSINESS DEVELOPMENT CENTERS

1. The authority citation for part 130 is revised to read as follows:

Authority: 15 U.S.C. 634(b)(6), 648, and 648 note.

2. Revise §130.100 to read as follows:

§ 130.100 Introduction.

(a) Objective. The Small Business Development Centers (SBDC) Program creates a broad-based system of assistance for the small business community by linking the resources of Federal, state, and local governments with the resources of the educational community and the private sector. The Program provides small businesses and aspiring entrepreneurs with a wide array of technical assistance and support to strengthen performance and sustainability of existing small businesses, and to enable the creation of new business entities. The Small Business Administration (SBA or the Agency) articulates its responsibilities for the general management and oversight of the SBDC Program by means of a cooperative agreement with the recipient organization.

(b) Incorporation of amended references. All references in this part to Standard Operating Procedures, SBA official policies and procedures, and award documents incorporate all ensuing changes or amendments to such sources.

(c) Adoption of other regulations. References in this part to 2 CFR part 200 and other provisions in this part include those regulations into this part as they exist at the time of use.

3. Amend §130.110 by:

- a. Adding the definition “Accreditation process” in alphabetical order;
- b. Revising the definitions “Applicant organization” and “Application”;
- c. Removing the definition “Area of Service” and adding the definition “Area of service” in its place;

d. Adding the definitions “Associate Administrator/Entrepreneurial Development (AA/ED)” and “Associate Administrator/Small Business Development Centers (AA/SBDC)” in alphabetical order;

e. Removing the definition “Catch Match” and adding the definition “Cash match” in its place;

f. Adding the definitions “Clearinghouse” and “Client” in alphabetical order;

g. Removing the definitions “Cognizant Agency” and “Cooperative Agreement” and adding the definitions “Cognizant agency” and “Cooperative agreement” in their places, respectively;

h. Revising the definition of “Counseling”;

i. Adding the definition “Counseling record” in alphabetical order;

j. Revising the definitions “Direct costs” and “Dispute”;

k. Adding the definition “District Office” in alphabetical order;

l. Revising the definitions “Grants Management Specialist”, “In-kind contributions”, and “Indirect costs”;

m. Adding the definitions “Insular areas” and “Key personnel” in alphabetical order;

n. Revising the definitions “Lead Center” and “Lobbying”;

o. Adding the definitions “Matching funds”, “Notice of funding opportunity”, “Notice of non-renewal”, “Notice of suspension”, “Notice of termination”, and “Office of Small Business Development Centers (OSBDC)” in alphabetical order;

p. Removing the definition “Overmatched Amount” and adding the definition “Overmatched amount” in its place;

q. Adding the definitions “Prior approval” and “Program funds” in alphabetical order;

r. Revising the definition “Program income”;

s. Removing the definition “Program manager” and adding “Program Manager” in its place;

- t. Adding the definition “Program performance data” in alphabetical order;
- u. Removing the definition “Project officer” and adding the definition “Project Officer” in its place;
- v. Revising the definition “Project period”;
- w. Adding the definition “Proposal”;
- x. Revising the definition “Recipient organization”;
- y. Adding the definition “SBDC Lead Center Director” in alphabetical order;
- z. Revising the definition “SBDC network”;
- aa. Adding the definitions “SBDC satellite location”, “SBDC service center”, and “SBDC Service Center Director” in alphabetical order;
- bb. Removing the definition “Specialized Services” and adding the definition “Specialized services” in its place;
- cc. Revising the definition “Training”; and
- dd. Adding the definition “Training record” in alphabetical order.

The additions and revisions read as follows:

§ 130.110 Definitions.

Accreditation process. A process to evaluate a small business development center for purposes of extending or renewing a cooperative agreement with SBA to ensure management strength, financial accountability, and economic impact.

Applicant organization. A qualified eligible entity that applies for Federal financial assistance to establish, administer, and operate an SBDC network under a new or renewed cooperative agreement.

Application. Also referred to as the proposal, the written submission by a new applicant organization or an existing recipient organization describing its projected SBDC activities for the upcoming budget period and requesting SBA funding for use in its operations.

Area of service. As designated in the cooperative agreement, the state or region in which an applicant organization proposes to provide services, or in which a recipient organization currently provides services.

Associate Administrator/Entrepreneurial Development (AA/ED). The individual who is appointed by the SBA Administrator to oversee the Office of Entrepreneurial Development (OED), where the SBDC Program is located.

Associate Administrator/Small Business Development Centers (AA/SBDC). The individual who is statutorily mandated to administer the SBDC Program.

* * * * *

Cash match. Non-Federal funds budgeted and expended by the recipient organization and/or sponsoring SBDC organization for direct costs of the project. Cash match excludes indirect costs, overhead costs, in-kind contributions, and program income.

Clearinghouse. A grant to allow Small Business Development Centers participating in the Program to exchange information about their programs; and provide information central to technology transfer.

Client. An entrepreneur or existing small business seeking services provided by the SBDC.

Cognizant agency. The Federal awarding agency that provides the predominant amount of direct funding to a recipient. See 29 CFR part 99.

Cooperative agreement. A legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302-6305:

(1) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States (see 31 U.S.C.

6101(3)); and not to acquire property or services for the Federal Government or pass-through entity's direct benefit or use.

(2) Is distinguished from a grant in that it provides for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.

(3) The term does not include:

(i) A cooperative research and development agreement as defined in 15 U.S.C. 3710a; or

(ii) An agreement that provides only:

(A) Direct United States Government cash assistance to an individual;

(B) A subsidy;

(C) A loan;

(D) A loan guarantee; or

(E) Insurance.

(4) Is a negotiated legal agreement between SBA and a recipient organization containing the terms and conditions under which SBA provides Federal funds for the performance of SBDC activities.

* * * * *

Counseling. Qualifying technical or management assistance, as defined in the cooperative agreement, provided through the SBDC Program to clients on an individual basis, as established by policy.

Counseling record. A record that provides individual client contact information, demographics about the client/business and data on the counseling provided.

Direct costs. Expenditures that can be identified specifically with a final cost objective and are further defined in 2 CFR part 200.

Dispute. A programmatic or financial disagreement that the recipient organization requests be handled in accordance with the dispute resolution procedures set forth at §130.630.

District Office. The local SBA office, in collaboration with the OSBDC, charged with ensuring that small business market needs are met by the SBDC; conducting the regularly scheduled compliance reviews; monitoring statements as required; and collaborating with the SBDC to perform joint events and trainings.

* * * * *

Grants Management Specialist. An SBA employee within the Office of SBDC, designated by the AA/SBDC, who meets the Office of Management and Budget (OMB) standards and certifications and is responsible for the budgetary review, award, and administration of one or more SBDC cooperative agreements.

In-kind contributions. Property, facilities, services, or other non-monetary contributions from non-Federal sources. See 2 CFR part 215 (OMB Circular A-110) and part 143 of this chapter, as applicable.

Indirect costs. Costs generally incurred for a common or joint purpose. See 2 CFR part 220 (OMB Circular A-21), 2 CFR part 225 (OMB Circular A-87), and/or 2 CFR part 230 (OMB Circular A-122).

Insular areas. Territories include the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Government of the Northern Mariana Islands. See 48 U.S.C. 1469a.

Key personnel. Principal staff of the Lead Center and SBDC service centers, including SBDC Lead Center Directors, SBDC Service Center Directors, or managers of International Trade Centers, Technology Program Centers, and directors of other SBDC specialty programs and any other leadership positions identified by the SBDC network.

Lead Center. The administrative office of the recipient organization that operates and manages an SBDC network.

Lobbying. “Lobbying” as described in OMB Circulars A-21, A-87, and A-122 and Pub. L. 101-121, section 319, which discuss the limitations on use of appropriated funds to influence

decisions of certain of Federal officials, including Members of Congress, Federal contracting, and financial transactions.

Matching funds. The combined amounts of non-Federal cash and non-cash resources proposed for the cooperative agreement or claimed to fulfill statutory match requirements.

Notice of funding opportunity. The annual solicitation that an applicant organization or recipient organization must respond to in its initial or renewal application.

Notice of non-renewal. A notice provided to an SBDC stating that the SBA will not renew the cooperative agreement with the current recipient organization.

Notice of suspension. A notice provided to an SBDC stating that the SBDC is under suspension.

Notice of termination. A notice provided to an SBDC stating that the SBDC is terminated.

Office of Small Business Development Centers (OSBDC). The SBA program office providing leadership and program oversight, managing the funding formula, program budget, and the establishment and maintenance of all program policy over the national SBDC network.

Overmatched amount. Contributions of non-Federal cash and of non-cash resources for authorized SBDC activities in excess of the statutorily required match.

Prior approval. The written concurrence from the appropriate SBA AA/SBDC, Deputy Associate Administrator for the Office of Small Business Development Centers, Grants Management Officer, Grants Management Specialist, or Program Manager for a proposed action or amendment to the SBDC cooperative agreement.

* * * * *

Program funds. Also referred to as project funds and defined as all funds authorized under the cooperative agreement including, but not limited to, Federal funds, cash match, non-cash match from indirect costs, in-kind contributions, and program income revenues.

Program income. Gross income earned as a result of the Federal award during the period of performance, including funds received under a sponsorship agreement, as defined in 2 CFR 200.80.

Program Manager. An SBA employee designated by the AA/SBDC, who oversees and monitors the SBDC network operations, including meeting the statutorily required programmatic reviews.

Program performance data. Any anonymous data or information that captures the outputs of the SBDC service center and outcomes of services provided to clients.

Project Officer. The individual who serves as the primary local contact for the SBDC, conducts regular compliance oversight as required by AA/SBDC, working in conjunction with the Program Manager.

Project period. The total annual period of performance for an award made under the notice of funding opportunity.

Proposal. Also known as the application, the written submission by a new applicant organization or an existing recipient organization describing its projected SBDC activities for the upcoming budget period and requesting Federal funding for use in its operations.

Recipient organization. The selected applicant organization receiving Federal funding to deliver SBDC services under a cooperative agreement.

* * * * *

SBDC Lead Center Director. Also referred to as the State/Region Director, an individual or position for which 100 percent of the individual's time and effort is allocated to the SBDC grant program and other grant programs that provide comparable management and technical assistance to the small business community in accordance with the cooperative agreement. For the purposes of meeting the Program requirements, no less than 75 percent of the SBDC Lead Center Director's time and effort must be devoted specifically to the SBDC grant. The SBDC Lead Center Director has clear and complete control of all SBDC Program funds.

SBDC network. The Lead Center, SBDC service centers, and SBDC satellite locations funded and affiliated by sub-agreements and comprising a single service delivery network administered by a recipient organization.

SBDC satellite location. A geographic point of service delivery that operates on a full- or part-time basis under direct management of an SBDC Lead Center Director or SBDC Service Center Director.

SBDC service center. An entity operating full-time authorized by the Lead Center to perform SBDC counseling and training services. Any type of organization can be an SBDC service center or SBDC satellite location.

SBDC Service Center Director. The individual responsible for SBDC Program implementation and management at an SBDC service center within an SBDC network.

* * * * *

Specialized services. SBDC services other than counseling or training, e.g., extensive research, hiring outside consultants for a client, translation services, etc.

* * * * *

Training. An educational activity or event presented by an SBDC that delivers a structured program of knowledge on an entrepreneurial or business-related subject, as established in the cooperative agreement.

Training record. A record that provides aggregate data about a training event to include training topic and program format.

4. Amend §130.200 by:

- a. Removing the paragraph designation and heading from paragraph (a) introductory text;
- b. Removing paragraph (b);
- c. Redesignating paragraphs (1) through (4) as paragraphs (a) through (d);
- d. Redesignating paragraph (5) as paragraph (h);
- e. Redesignating paragraph (6) as paragraphs (g);

e. Adding paragraphs (e) and (f);

f. In newly redesignated paragraph (g), removing the period and adding “; or” in its place;
and

g. Revising newly redesignated paragraph (h).

The additions and revision read as follows:

§ 130.200 Eligible entities.

* * * * *

(e) A Women’s Business Center operating pursuant to section 29 of the Small Business Act (15 U.S.C. 656);

(f) The Commonwealth of the Northern Mariana Islands SBDC must have its principal office located in the Commonwealth of the Northern Mariana Islands (CNMI) and must:

(1) Be a CNMI government or agency;

(2) Be a regional entity;

(3) Be a CNMI-chartered development, credit, or finance corporation;

(4) Be an institution of higher education (including but not limited to any land-grant college or university, any college or school of business, engineering, commerce, or agriculture, community college or junior college);

(5) Be a current SBA Women’s Business Center (WBC); or

(6) Be any entity formed by two or more of the entities in paragraphs (f)(1) through (5) of this section;

* * * * *

(h) Any entity operating continually as a recipient organization on or before December 31, 1990.

5. Revise §130.300 to read as follows:

§ 130.300 Small Business Development Centers (SBDCs).

The Small Business Development Center Program is established under the statutory authority of the Small Business Act (15 U.S.C. 648) and administered through cooperative agreements issued to recipient organizations.

6. Revise §130.310 to read as follows:

§ 130.310 Area of service.

(a) The AA/SBDC will designate, in the cooperative agreement, the geographic area of service of each recipient organization. Generally, no more than one recipient organization may be located in a state.

(1) The AA/SBDC may determine that making awards to multiple recipient organizations in a state is necessary to more effectively implement the Program and provide services to all interested small businesses.

(2) Once the Administration has entered into a cooperative agreement, a subsequent decision to change the recipient organization's area of service will be considered a non-renewal or termination. This decision will be subject to the procedures outlined in §130.700.

(b) The recipient organization must locate its Lead Center and SBDC service centers in the designated area of service to ensure that services are readily accessible to all small businesses within the designated area of service.

(c) The recipient organization must ensure that any new SBDC service centers established within its area of service are primarily housed within institutions of higher education or a Women's Business Center (WBC) operating pursuant to section 29 of the Small Business Act (15 U.S.C. 656) as stated in section 21(a)(1) of the Small Business Act (15 U.S.C. 648(a)(1)).

(d) The allocation of resources, including site locations of the Lead Center and the SBDC service centers, will be reviewed for adequacy of coverage by SBA as part of the application review process for each budget period.

§130.320 [Removed]

7. Remove §130.320.

§§130.330, 130.340, 130.350, and 130.360 [Redesignated as §§130.320, 130.330, 130.340, and 130.350]

8. Redesignate §§130.330, 130.340, 130.350, and 130.360 as §§130.320, 130.330, 130.340, and 130.350.

9. Amend newly redesignated §130.320 by:

- a. Revising paragraph (a);
- b. Adding a final sentence to paragraph (b);
- c. Revising paragraph (c);
- d. Redesignating paragraphs (d) and (e) as paragraphs (h) and (i);
- e. Adding new paragraphs (d) and (e) and paragraphs (f) and (g); and
- f. Revising newly redesignated paragraphs (h) and (i).

The revisions and additions read as follows:

§ 130.320 Operating requirements.

(a) The recipient organization has the contractual responsibility for performing the duties of the Lead Center in accordance with the cooperative agreement. The Lead Center must be an independent department within the recipient organization, having its own staff, including a full-time SBDC Director.

(b) * * * The Lead Center must conduct and document annual financial and programmatic reviews and evaluations of its SBDC service centers consistent with §130.820(a).

(c) The Lead Center's and SBDC service center's services shall be available to the public throughout the year during the normal hours of the business community. In addition, every effort should be made to provide assistance, including during non-business hours, both in-person and virtually, as appropriate, to meet local community business demands and needs. Variations from these schedules or other anticipated closures will be included in the new or annual renewal application. Emergency closures will be reported to the SBA District Office as soon as is feasible.

(d) The specific identification “Small Business Development Center” must be a part of the official name of every SBDC Lead Center and SBDC service center within the SBDC network, unless waived by the AA/SBDC.

(e) Any entity operating as an SBDC service center, whether receiving Federal funding or not, is considered a part of the recipient organization's network and as such the recipient organization is required to report to the OSBDC each SBDC service center's performance as well as any funds or program income generated by the activities of that entity.

(f) An SBDC network may seek the designation as a Small Business Technology Development Center in accordance with the recognized association’s accreditation program. An SBDC network proposing to use the identification “Small Business Technology Development Center” must follow the recognized association procedures, obtain the written concurrence of the AA/SBDC, and meet the accreditation requirements established by the recognized association.

(g) Each SBDC must maintain a minimum number of export and trade certified counselors to assist clients develop export and international trade opportunities. The standard for establishing the number of counselors required to have this certification is based on the total number of full-time equivalent (FTE) counseling employees in an SBDC's network. The minimum number of certified counselors for an SBDC network is the lesser of:

(1) Five counselors; or

(2) Ten percent of the total number of FTE counselors in the network.

(h) The Lead Center and all its SBDC service centers must implement and have in effect at all times, a uniform and enforceable conflict of interest policy applicable to all SBDC employees, contractors, consultants, and volunteers and signed annually. At a minimum, this policy must be consistent with the conflict of interest principles set forth in 2 CFR 2701.112.

(i) The SBDC network will comply with 13 CFR parts 112, 113, 117, and 136 requiring that no person, on the grounds of race, color, handicap, marital status, national origin, race,

religion, or gender, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the SBDC network.

10. Amend newly redesignated §130.330 by:

- a. Revising paragraph (a);
- b. Removing the words “are encouraged to” from paragraph (b)(1) and adding in their place the word “must”;
- c. Revising paragraphs (b)(2) through (6) and (c);
- d. Adding paragraph (d).

The revisions and addition read as follows:

§ 130.330 SBDC services and restrictions on service.

(a) Services. The SBDC network must provide prospective entrepreneurs and existing small businesses, known as clients, with counseling, training, and specialized services. The SBDC must create counseling records for clients when required by the cooperative agreement. The services provided must relate to the formation, financing, management, and operation of small business enterprises. The network must provide services that meet local needs as determined through periodic needs assessments, which are continually improved to keep pace with changing local small business needs. It is the responsibility of the recipient organization to change local SBDC service centers, as necessary, to meet the needs of the communities it serves in accordance with §§130.310 and 130.620. See section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c) (36)) for the full list of compulsory services. To the extent possible, SBDCs will work in collaboration with other Federal, state, and local government programs that assist small businesses and will coordinate and cooperate, to the extent practicable, with other local public and private providers of small business assistance. An SBDC Lead Center should use and compensate qualified small business vendors as one of its resources.

(b) * * *

(2) SBDCs may provide loan packaging services to SBDC clients free of charge as stated in §130.470.

(3) SBDCs should prepare their clients to represent themselves to lending institutions. SBDCs may attend meetings with lenders to assist clients in preparing financial packages; however, neither SBDC staff nor their agents may take a direct or indirect role in representing clients in loan negotiations.

(4) SBDCs should disclose to their clients that financial counseling assistance, including loan packaging, will not guarantee receipt of or imply approval of a loan or loan guarantee.

(5) SBDCs may not make loans, intervene in loan decisions, service loans, make credit recommendations or influence decisions regarding the award of any loans or lines of credit on behalf of the SBDC's clients, including having SBDC personnel serve on panels or boards that review loan applications.

(6) With respect to SBA loan guaranty programs, SBDCs may accompany an applicant organization appearing before SBA or a lender but may not advocate, recommend approval or otherwise attempt in any manner to influence SBA or a lender to provide financial assistance to any of its clients.

(c) Special emphasis initiatives. Periodically, SBA may identify, and include in the cooperative agreement, portions of the general population to be targeted for assistance by SBDCs and specific focus areas including, but not limited to: base closure assistance; cybersecurity and preparedness; employee ownership program; and intellectual property protections.

(d) Portable assistance. This cooperative agreement is a startup and sustainability non-matching program to be conducted by eligible SBDCs in communities that are economically challenged as a result of a business or government facility downsizing or closing, which has resulted in the loss of jobs or small business instability. These funds will be used for small business development center personnel expenses and related small business programs and services.

11. Revise newly redesignated §130.340 to read as follows:

§ 130.340 Specific program responsibilities.

(a) Policy development. The AA/SBDC will establish program policies and procedures to improve the delivery of services by SBDCs to the small business community, and to enhance compliance with applicable laws, regulations, OMB guidelines, and Executive orders. The AA/SBDC will, to the extent practicable, consult with the recognized association.

(b) Program administration. The AA/SBDC or designee will recommend the annual program budget, establish appropriate funding levels in compliance with the statute, and review the annual budgets submitted by each applicant. The AA/SBDC will also select applicants to participate in the Program, to maintain a clearinghouse to provide for the dissemination and exchange of information between SBDCs, and to conduct audits of recipients of SBDC grants.

(c) Responsibilities of SBDC Lead Center Directors. (1) The SBDC Lead Center Director must be an individual dedicating not less than 75 percent of their time to the supervision and control of the SBDC on behalf of the recipient organization. The position may not be held by a company or contractor.

(2) The SBDC Lead Center Director position must have direct reporting authority, at a minimum, equivalent to that of a college dean in a university setting or the third level of management or administration within a state agency.

(3) The Lead Center Director will direct and monitor program activities and financial affairs of the SBDC network to ensure effective delivery of services to the small business community, and compliance with applicable laws, regulations, 2 CFR part 200, and the terms and conditions of the cooperative agreement.

(4) The SBDC Lead Center Director must have the authority necessary to control all personnel, budgets, and expenditures under the cooperative agreement.

(5) The SBDC Lead Center Director will serve as the SBA's principal contact for all matters involving the SBDC network including, but not limited to, ensuring that state and local

needs are addressed; financial and programmatic reporting are submitted; service centers are providing training; employees have experience necessary to conduct meaningful counseling; etc.

12. Amend newly redesignated §130.350 by:

a. Removing the word “must” from paragraph (a)(1) and adding in its place the word “will”;

b. Revising paragraphs (a)(2) through (4) and (6) and (b)(1); and

c. Adding paragraphs (b)(3) through (5).

The revisions and additions read as follows:

§ 130.350 SBDC advisory boards.

(a) * * *

(2) This advisory board will be referred to as a State SBDC Advisory Board in a state/territory having only one recipient organization, and a Regional SBDC Advisory Board in a state having more than one recipient organization.

(3) These advisory boards must consist of representatives from small businesses or associations representing small businesses. Membership must be derived from the entire area of service.

(4) New Lead Centers must establish a State or Regional SBDC Advisory Board by the beginning of the second project period.

* * * * *

(6) The reasonable cost of travel of any Board member for official Board activities will be paid out of the SBDC’s budgeted funds. Federal and program funds are not to be used to compensate advisory board members for non-travel related expenses such as time and effort.

(b) * * *

(1) The SBA will establish a National SBDC Advisory Board comprised of members who are not Federal employees, appointed by the SBA Administrator. The Board will elect a chairperson. Three members of the Board will be from universities, or their affiliates and the

remainder will be from small businesses or associations representing small businesses. Board members will serve staggered 3-year terms. The SBA Administrator may appoint successors to fill unexpired terms.

* * * * *

(3) The reasonable cost of travel of any National SBDC Advisory Board member for official Board activities will be paid by SBA out of SBDC line-item program funds.

(4) Each member of the Board will be entitled to be compensated at the rate not in excess of pay for individuals occupying the position under GS-15 of the General Schedule for each day engaged in activities of the Board and shall be entitled to be reimbursed for expenses as a member of the Board.

(5) The Board will meet at least semiannually and at the call of the Chairman of the Board.

13. Add a new §130.360 to read as follows:

§130.360 Selection of the SBDC Lead Center Director.

(a) Selection. Selection of an SBDC Lead Center Director must be accomplished in accordance with the guidelines set forth in the notice of funding opportunity and cooperative agreement.

(b) Vacancy. (1) The recipient organization must notify the appropriate SBA District Director (DD), Regional Administrator, and AA/SBDC within 10 business days of either:

(i) Being notified by the incumbent SBDC Lead Center Director of their intent to vacate the position; or

(ii) Its formal decision to remove the incumbent SBDC Lead Center Director.

(2) If the position will be vacated prior to the selection of a replacement, the recipient organization must appoint an interim SBDC Lead Center Director, prior to the vacancy, who will serve in that capacity until a permanent SBDC Lead Center Director is in position.

(3) The recipient organization must inform the SBA District Director, Regional Administrator, and the AA/SBDC within 10 business days of the appointment of the interim SBDC Lead Center Director and provide that individual's contact information.

(4) An interim Lead Center Director must allocate at least 75 percent of their time and effort to the SBDC Program until a permanent SBDC Lead Center Director is in position. This must be documented in accordance with the policies of the recipient organization. An interim SBDC Lead Center Director must be knowledgeable about sponsored programs. The appointment period for such interim SBDC Lead Center Director will not exceed 120 days. Should more time be needed the recipient organization must obtain prior approval from the AA/SBDC for an extension.

14. Add §130.370 to read as follows:

§ 130.370 Contracts with other Federal agencies.

(a) An SBDC Lead Center or SBDC service center organization may enter into a contract or grant with a Federal department or agency to provide specific assistance to small business concerns in accordance with paragraphs (b) and (c) of this section.

(b) Prior to bidding on a non-SBA Federal award or contract, the SBDC Lead Center or service center must obtain written consent from the AA/SBDC or designee regarding the subject and general scope of the award or contract to ensure that performance under the award or contract does not represent a conflict with the SBA's cooperative agreement.

(c) Federal funds from other Federal programs (except for certain Community Development Block Grant program funds) may not be counted as match for purposes of the SBDC Program. In addition, match expenditures reported to the SBA under the cooperative agreement may not be used or reported as match for another Federal program.

15. Add §130.380 to read as follows:

§ 130.380 Client privacy.

(a) SBDCs, including their contractors and other agents, are not permitted to disclose the Client's name, address, email address, or telephone number, hereafter referred to as "client contact data," of individuals or small businesses that obtain any type of assistance from the Program to any person or entity other than the SBDC, without the consent of the client, except in instances where:

(1) Court orders require the SBA Administrator to do so in any civil or criminal enforcement action initiated by a Federal or state agency;

(2) The Administrator considers such a disclosure to be necessary for the purpose of conducting a financial audit of a center, not including those required under §130.830, as determined on a case-by-case basis when formal requests are made by a Federal or state agency. Such formal requests must justify and document the need for individual client contact and/or program activity data to the satisfaction of the Administrator; or

(3) SBA requires client contact data to directly survey SBDC clients.

(b) SBDCs must provide an opportunity for a client to opt-in to allow the SBA to obtain client contact data. The SBA may use the permitted client contact data only to conduct surveys or studies that help stakeholders better understand how the services the client received affect their business outcomes over time. These surveys or studies would include, but not be limited to:

(1) Studying evaluation and performance management;

(2) Measuring the effect and economic or other impact of Agency programs;

(3) Assessing public and SBDC partner needs;

(4) Measuring customer satisfaction;

(5) Guiding program policy development;

(6) Improving grant-making processes; and

(7) Other areas SBA determines would be valuable to strengthen the SBDC Programs and/or enhance support for SBDC clients.

(c) SBDCs may not deny access to services to clients solely based on their refusal to provide consent as referenced in this section.

(d) Any reports or studies on program activity produced by SBDC and/or the Administrator, including their contractors and other agents, may not disseminate client contact data and must only report data in the aggregate. Individual client contact data will not be disclosed in any way that could individually identify a client.

(e) SBDCs and the Administrator, including their contractors and other agents, must obtain consent from the client prior to publishing media or reports that identify an individual client.

(f) This section does not restrict the Agency in any way from access and use of program performance data.

16. Revise §130.400 to read as follows:

§ 130.400 Application procedures.

All SBDC applicants must comply with the annual notice of funding opportunity, including format, conditions, submission requirements, and due dates, for their new or renewal application to receive consideration.

17. Revise §130.410 to read as follows:

§ 130.410 New applications.

(a) New applicants. New applicants must comply with the requirements set forth in the applicable notice of funding opportunity, including format, conditions, and due dates for their applications to receive consideration.

(b) Consideration. Except in cases involving insular areas, only those applicants operating under §130.200 and incorporated solely within the state/region where the new SBDC is to be located will receive consideration.

(c) Recruiting and selecting new recipient organizations. (1) SBA will use a fair, open and competitive procurement process to solicit proposals for new SBDC Program awards.

(2) After completion of an objective review process, the AA/SBDC will make the final selection and notify the successful applicant.

(3) The newly selected recipient organization may, with prior written approval from the SBA, incur qualified pre-award matching expenditures for the establishment of the Lead Center office, to recruit Lead Center staff, and to cover other related start-up expenditures to the extent permitted under 2 CFR 215.25(e)(1).

18. Revise §130.420 to read as follows:

§ 130.420 Renewal applications.

(a) The recipient organization will submit the renewal application to OSBDC using the submission process outlined in the annual notice of funding opportunity.

(b) If the OSBDC chooses to not renew the award of an existing recipient organization or the recipient organization elects not to reapply, the OSBDC will award a cooperative agreement for the conduct of an SBDC project to a new recipient organization in the same area of service using a competitive process. If the OSBDC has initiated a non-renewal or termination action, the Agency will not issue the new award until all administrative remedies have been exhausted. For further information regarding the termination and non-renewal procedures, see §130.700.

(c) Significant factors considered in the renewal application review will include:

(1) The applicant's ability to obtain matching funds;

(2) The quality of prior performance under the cooperative agreement;

(3) The results of any examination conducted pursuant to §130.810(b);

(4) Corrective measures implemented as a result of examinations conducted; and

(5) The accreditation provisions of §130.810(c) including any conditions, accreditation report recommendations, and corrective measures implemented, affecting the recipient organization and the SBDC network.

(d) The OSBDC will review the renewal application for conformity with the notice of funding opportunity. The AA/SBDC may request additional information and documentation prior to issuing the cooperative agreement.

19. Revise §130.430 to read as follows:

§ 130.430 Application decisions.

(a) New applications will either be accepted or rejected in accordance with the evaluation criteria set forth in the applicable notice of funding opportunity. The AA/SBDC may approve, or conditionally approve, or deny any new application. The AA/SBDC may approve or conditionally approve or deny a renewal application. The AA/SBDC may also reject a renewal application after following due process in accordance with the procedures set forth in §130.700. If a renewal application is conditionally approved, the requirements that the recipient organization must meet in order to obtain full and unconditional approval, will be specified as special terms and conditions in the cooperative agreement.

(b) In the event of a conditional approval, the SBA may fund a recipient organization for one or more specified periods of time up to a maximum of one budget period. If the recipient organization fails to comply with the special terms and conditions of the award to the satisfaction of the AA/SBDC within the allotted time period, the AA/SBDC may suspend, non-renew, or terminate the cooperative agreement with the SBDC, in accordance with the procedures set forth in §130.700.

20. Revise §130.440 to read as follows:

§ 130.440 Maximum grant.

(a) No recipient organization will receive an SBDC grant, in any fiscal year under a cooperative agreement, exceeding the greater of the minimum statutory amount, or its pro rata share of all SBDC grants as determined by the statutory formula set forth in section 21(a)(4)(C) of the Small Business Act (15 U.S.C. 648(a)(4)(C)). This limit does not apply to the distribution

of supplemental funds, or to grants provided pursuant to sections 21(a)(4)(C)(viii) and 21(a)(6) of the Small Business Act (15 U.S.C. 648(a)(6)).

(b) Additional grants are subject to the limitations set forth in section 21(a)(6) of the Small Business Act unless the statute providing for the additional grant states otherwise.

21. Amend §130.450 by:

- a. Revising the second sentence of paragraph (a);
- b. Revising the third sentence and removing the fourth sentence of paragraph (b);
- c. Revising paragraphs (c) through (e); and
- d. Adding new paragraphs (f) through (h).

The additions and revisions read as follows:

§ 130.450 Matching funds.

(a) * * * Cash match must equal at least 50 percent of the SBA funds used by the SBDC.

* * *

(b) * * * Any additional requirements, specifications, or deliverables must be clearly identified in the budget narrative. * * *

(c) Under the authority of 48 U.S.C. 1469a(d), the AA/SBDC may, at his/her discretion, waive any requirement of matching funds for an insular territory otherwise required by law to be provided. Notwithstanding any other provision of law, in the case of American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands, any department or agency shall waive any requirements for local matching funds under \$200,000, including in-kind contributions, required by law to be provided by American Samoa, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(d) All applicants must submit a certification of cash match and program income. This certification must be executed by an authorized official of the recipient organization and must identify any SBDC service center organization(s) providing cash match under a subcontract or other agreement.

(e) In addition to the Federal and program income funds, all matching funds must be under the direct management of either the SBDC Lead Center Director or an SBDC Service Center Director, when budgeted under an SBDC service center organization.

(f) The Grants Management Specialist will determine whether matching funds and cash match set forth in the budget proposal are sufficient to issue the cooperative agreement.

(g) Overmatched amounts are funds that are contributions of non-Federal cash and of non-cash resources for authorized SBDC activities in excess of the statutorily required match.

(1) Recipient organizations are encouraged to identify overmatched amounts as part of the cooperative agreement. The recipient organization must fully identify the amount and sources of claimed overmatched amounts. If overmatched amounts are reported, they are subject to the provisions of the cooperative agreement and SBA biennial programmatic and financial examinations.

(2) An overmatched amount can be applied as matching funds for any funding increase (i.e., supplemental funds) received by the SBDC during the budget period, as long as the total cash match contributed by the SBDC is 50 percent or more of the total SBA funds tendered during the budget period and provided that the total match is still 100 percent.

(3) Allowable overmatched amounts which have not been used in the manner described in this section may, with the approval of the AA/SBDC, be used as a credit to offset any confirmed audit disallowances applicable only to the budget period in which the overmatched amount exists and the two previous budget periods. Such offsetting funds shall be considered matching funds.

(h) The following sources cannot be used as matching funds for the SBDC network:

(1) Uncompensated student labor;

(2) SCORE, SBA, Women's Business Centers, or other SBA resource partners;

(3) Program income or fees collected from individuals or small businesses receiving assistance;

- (4) Federal funds other than Community Development Block Grant (CDBG) funds;
- (5) In-kind contributions, or indirect costs not solely dedicated to the SBDC Program, or under its control;
- (6) Any resource allocated and claimed as a matching cost to another federally funded program; or
- (7) Funds or other resources provided for an agreed upon scope of work inconsistent with the authorized activities of the SBDC Program.

22. Revise §130.460 to read as follows:

§ 130.460 Budget justification.

(a) General. The SBDC Lead Center Director, as a part of the annual renewal proposal, or the applicant organization's authorized representative, in the case of a new SBDC application, shall prepare and submit to the SBA Project Officer the budget justification for the upcoming budget period. The budget shall be reviewed annually upon submission of a renewal application.

(b) Direct costs. At least 80 percent of SBA funding must be allocated to the direct cost of program delivery.

(c) Indirect costs. If the applicant organization or recipient organization waives all indirect costs, then 100 percent of SBA funding must be allocated to program delivery. If the reimbursements of some, but not all, indirect costs are waived to meet the matching funds requirement, the lesser of the following may be allocated as reimbursed indirect costs of the Program and charged against the Federal contribution:

- (1) Twenty percent of Federal contribution; or
- (2) The amount remaining after the waived portion of indirect costs is deducted from the total indirect costs allowed by the SBA.

(d) Separate SBDC service provider budgets. The applicant organization shall include separate budgets for all SBDC service providers in conformity with OMB requirements.

Applicable direct cost categories and indirect cost base/rate agreements will be included for the

Lead Center and all SBDC service providers, using a rate equal to or less than the negotiated predetermined rate. If no such rate exists, the sponsoring SBDC organization or SBDC service provider will negotiate a rate with its cognizant agency. In the event the sponsoring SBDC organization or SBDC service provider does not have a cognizant agency, the rate shall be, in accordance with OMB guidelines:

(1) Negotiated with the SBA Project Officer; or

(2) Apply the OMB de minimis rate.

(e) Cost principles. Principles for determining allowable costs are contained in 2 CFR part 200, subpart E.

(f) Costs associated with lobbying. No program funds may be used for lobbying activities, either directly by the SBDC or indirectly through outside organizations, except those activities permitted by OMB. Restrictions on and reports of lobbying activities by the SBDC shall be in accordance with 2 CFR part 200 and section 319 of Public Law 101-121.

(g) Salaries. (1) Where the recipient organization is an educational institution, the salaries of the SBDC Lead Center Director and the SBDC Service Center Director must approximate the average annualized salary of a full professor and an assistant professor, respectively, in the school or department in which the SBDC is located. If a recipient organization is not an educational institution, the salaries of the SBDC Lead Center Director and the subcenter Directors must approximate the average salaries of parallel positions within the recipient organization. In both cases, the recipient organization should consider the Director's longevity in the Program, the number of subcenters, the size of the SBDC budget, the number of service centers, and the individual's experience and background.

(2) Salaries for Lead Center Directors should be comparable to salaries paid Lead Center Directors in other states or regions with comparably sized programs, responsibilities, and authority.

(3) Salaries for all other positions within the SBDC should be based upon level of responsibility and be comparable to salaries for similar positions in the area served by the SBDC.

(h) Equipment. In accordance with 2 CFR part 200, capital expenditures for equipment must have the prior approval of the Program Manager of the OSBDC, either through a specific disclosure in an annual cost proposal or through an approved amendment to an existing cooperative agreement.

(i) Travel. (1) All travel must be separately identified in the proposed budget under the categories of: planned in-state/region, planned out-of-state/region, unanticipated in-state/region, or unanticipated out-of-state/region. Unplanned travel estimates may be based on the SBDC's experience.

(2) The cost of all proposed travel must be equal to or less than the rate for coach class, apply directly to the specific work of the SBDC, be incurred in the normal course of program administration, and conform to the written travel policies, including per-diem rates, of the recipient organization or the sponsoring SBDC organization. (Per diem rates, including lodging, will not exceed those authorized by the recipient organization.)

(3) Transportation costs must be justified in writing, including the estimated cost, number of persons traveling, and the benefit to be derived by the small business community from the proposed travel.

(4) Any proposed unplanned out-of-state/region travel exceeding the approved amount budgeted for this category must be submitted to the SBA for approval on a case-by-case basis prior to traveling.

(5) All foreign travel requests must be submitted to the appropriate District Director and the SBDC Program Manager for review and provided to the AA/SBDC for final approval in accordance with the notice of funding opportunity. Foreign travel charged to the SBDC cooperative agreement or performed by SBDC staff, while on duty for the recipient organization, must be approved in advance.

(i) Planned foreign travel costs allocable to the SBDC cooperative agreement for SBDC network staff may be approved by AA/SBDC through the annual proposal process, but such planned costs must be fully disclosed and justified in the budget narrative for Agency review. Prior approval should be obtained from the AA/SBDC prior to travel in accordance with 2 CFR part 200.

(ii) Unanticipated foreign travel must be approved using the process set forth in this paragraph (i).

(j) Dues. Dues to the recognized association may be charged to the cooperative agreement. Costs proposed for membership in any civic or community organization, however, must be justified in terms of the benefit to the SBDC derived from this expenditure. All other requirements of 2 CFR 200.454 apply. In addition, all memberships purchased with project funds must be in the name of the SBDC Program rather than in the name of an individual.

23. Add §130.465 to read as follows:

§ 130.465 Restricted and prohibited costs.

(a) SBA prohibitions are consistent with those outlined in 2 CFR part 200.

(b) An SBDC must not use project funds as collateral for a loan or other such monetary purpose.

(c) An SBDC must not use project funds for memorabilia, gifts, prizes, souvenirs, entertainment, alcoholic beverages, amusement, social activities, or any other such costs.

(d) Prior written approval from the AA/SBDC is need for SBDC project funds to be used for the purpose of fundraising activities and costs. SBDCs may include in initial applications and renewal applications proposed fundraising activities. After issuance of an approved cooperative agreement, an SBDC wishing to seek prior approval for new fundraising activities not already approved should follow the prior approval guidance in the cooperative agreement. Prohibited fundraising activities include, but are not limited to:

(1) Costs of organized fundraising, endowment drives;

(2) Financial or capital campaigns; or

(3) Solicitation of gifts and bequests.

(e) Project funds found to be used in violation of the restrictions in this section may be cause for termination, suspension, or non-renewal of the cooperative agreement.

24. Revise §130.470 to read as follows:

§ 130.470 Fees.

(a) An SBDC may charge clients a reasonable fee to cover the costs of training (sponsored or cosponsored) by the SBDC, the sale of books, the rental of equipment or space, research work, hiring outside consultants for a particular client, or other specialized services.

(b) SBDC network entities, staff, consultants, or volunteers must not solicit or accept fees or other compensation for counseling services, including, but not limited to, business or marketing plan development, loan packaging or credit application assistance, or other advisory services described in section 21 of the Small Business Act.

25. Revise §130.480 to read as follows:

§ 130.480 Program income.

(a) Program income and interest earned on program income, may only be used for authorized purposes and in accordance with 2 CFR 200.307 and the cooperative agreement, such as to expand the quantity or quality of services, resources or outreach provided by the SBDC network.

(b) Program income may not be reported or used as a matching resource. Unused program income must be carried over to the subsequent budget period by the SBDC network; however, the aggregate amount of network program income cannot exceed 25 percent of the total SBDC budget (Federal and matching expenditures).

(c) Program income exceeding 25 percent of the total approved SBDC budget must be expended by the SBDC network prior to the end of the budget/project period in which the excess occurs.

(d) The Lead Center must report the consolidated program income sources and uses as an attachment to the financial status report for the SBDC network during the budget period. The SBDC must provide a narrative describing how program income was used to further program objectives.

(e) For SBDC sponsored activities in which revenue will be shared with a third party, the SBDC must document the reason for the shared revenue and provide a reasonable basis for the shared amount. The basis should include an analysis of actual costs of the activity(ies).

26. Add §130.490 to read as follows:

§ 130.490 Property standards.

The SBDC Program regulations adopt and implement guidelines in 2 CFR part 200. Additionally, the SBA interest in material property extends to capital equipment and supplies (with an aggregate value of at least \$5,000) obtained with resources budgeted and reported under the cooperative agreement. This includes acquisitions made using Federal, matching (including in-kind), or program income sources.

27. Revise §130.500 to read as follows:

§ 130.500 Reimbursements and advancements.

(a) SBA reimbursement of grant funds to recipient organizations is via electronic transfer. Detailed instructions for the recipient organizations are included in the cooperative agreement. Reimbursement requests must be complete, accurate, and reported to the SBA using the proper forms to ensure timely payment by the Agency.

(b) Reimbursement requests may be for the estimated or actual Federal share of SBDC network expenses. Recipient organizations will submit semi-annual and annual financial reports as instructed in the cooperative agreement.

(c) The management of advanced Federal funds by recipient organizations must be in accordance with 2 CFR part 200 and the Agency must be notified of and paid all amounts due from interest accrued on advances.

(d) When the Agency determines that an overpayment of Federal funds has been made, whether the overpayment discovered is revealed by year end reconciliation of invoicing, a financial examination, or other means, then the amount will be due and payable to the Agency within 30 days upon receipt of written notice to the recipient organization.

28. Revise §130.600 to read as follows:

§130.600 Cooperative agreement.

(a) Cooperative agreement provisions. A recipient organization will incorporate into its SBDC sub-agreements and contracts the provisions of the cooperative agreement.

(b) Sub-agreements. SBA will not direct or otherwise approve any sub-agreements entered into by recipient organizations with SBDC service center organizations, vendors, or contractors.

(c) Goals and milestones. (1) The AA/SBDC or designee will develop performance measurements for SBDC networks and include provisions for their achievement in the cooperative agreement.

(2) The AA/SBDC or designee will negotiate with the designated association and Lead Center to establish the annual goals, milestones, and activities for the cooperative agreement.

(3) Failure to meet the goals and milestones of the cooperative agreement may result in suspension, termination, or non-renewal in accordance with the dispute resolution procedures set forth in §130.630.

(4) Agency loan goals may not be negotiated or incorporated into the cooperative agreement without the prior written approval of the AA/SBDC.

(d) Procurement policies and procedures. (1) Recipient organizations and SBDC service center organizations must have written procurement and contracting procedures that comply with the applicable state and local procurement standards and 2 CFR part 200.

(2) Contracts and sub-agreements supported with funds provided under the cooperative agreement must comply with the procurement procedures of the recipient organization.

(3) Contracting procedures must encourage open competition among qualified vendors and promote the effective, efficient, and responsible use of program resources and OMB guidance.

(4) Contracting procedures should provide for domestic sourcing preferences to the greatest extent practicable, showing preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States.

29. Revise §130.610 to read as follows:

§ 130.610 Grant administration and cost principles.

(a) Upon approval of the initial or renewal application, SBA will enter into a cooperative agreement with the recipient organization, setting forth the programmatic and fiscal responsibilities of the recipient organization and SBA, the scope of the project to be funded, and the budget of the program year covered by the cooperative agreement.

(b) The SBDC Program adopts and implements OMB guidelines as published at 2 CFR parts 200 and 2701. The guidelines and principles apply to both recipient organizations and SBDC service center organizations. Additional guidance may be promulgated through the notice of funding opportunity.

(c) The AA/SBDC reserves the right to propose additional requirements beyond those set forth in both the uniform grant administrative requirements and cost principles where necessary to ensure the effective and efficient management of the SBDC Program. See 2 CFR part 200, subpart E.

30. Revise §130.620 to read as follows:

§ 130.620 Revisions and amendments to cooperative agreements.

(a) Requests for revisions. The cooperative agreement may not be unilaterally amended, modified, or revised by the recipient organization. Rather, a recipient organization must submit a written request to AA/SBDC along with a copy to the appropriate District Office when it wants to make one or more revisions to the cooperative agreement. Written approval from the

AA/SBDC is required prior to the implementation of a proposed revision. Revisions that require amendment of the cooperative agreement include:

(1) Any change in project scope or objectives that will substantially change outcomes described in the cooperative agreement;

(2) The addition or deletion of any contracts;

(3) Budget revisions exceeding the limit established in the cooperative agreement; and

(4) Any proposed sole-source or one-bid contracts exceeding the limits established by applicable administrative regulations or OMB.

(b) Emergency authorizations. (1) The AA/SBDC may amend one or more cooperative agreements to authorize unanticipated out-of-state travel by SBDC personnel responding to a need for services in a presidentially declared major disaster areas. Notification of this type of authorization will be accomplished through the publication of an SBA Notice in the *Federal Register*.

(2) Proposed and actual travel costs incurred under an emergency authorization must comply with the requirements of §130.460(h), as well as the relevant notice of funding opportunity and OMB guidelines.

31. Revise §130.630 to read as follows:

§ 130.630 Dispute resolution procedures.

(a) Financial disputes. (1) A recipient organization wishing to resolve a financial dispute must submit a written statement to the appropriate District Office describing the subject of the dispute, along with any relevant documentation.

(2) If the recipient organization receives an unfavorable decision from the SBA, it may file an appeal with the AA/SBDC within 30 calendar days of the date of receipt of the unfavorable decision.

(3) The AA/SBDC may request additional information or documentation from the recipient organization at any stage of the proceedings. The response to the request for additional

information must be provided in writing to the AA/SBDC within 15 calendar days of receipt of the request. The AA/SBDC will transmit a written decision to the recipient organization within 15 calendar days of receipt of the appeal or within 15 calendar days of receipt of additional information requested.

(4) If the recipient organization receives an unfavorable decision from the AA/SBDC, it may make a final appeal to the SBA Grants and cooperative agreements Appeals Committee (the “Committee”). The final appeal to the Committee must be filed within 30 calendar days of the date of receipt of the AA/SBDC’s written decision. Copies of the appeal must also be sent to the Grants Management Specialist and the Program Manager. If the recipient organization elects not to file an appeal with the Committee, the decision of the AA/SBDC becomes the final Agency decision on the matter.

(5) A recipient organization may request a hearing before the Committee, but such requests will not be granted, unless material facts are substantially in dispute. Legal briefs and other technical forms of pleading are not required. However, appeals to the Committee must be in writing and contain at least the following information and supporting documentation:

- (i) Name and address of the recipient organization;
- (ii) Name and address of the appropriate SBA District Office(s);
- (iii) A copy of the underlying cooperative agreement, including all amendments;
- (iv) A statement of the grounds for appeal, with reasons why the appeal should be sustained;
- (v) A statement of the specific relief desired on appeal; and
- (vi) If a hearing is requested, a statement of the material facts the recipient organization believes are substantially in dispute. In the event a recipient organization fails to provide any of the information specified above, the Committee may dismiss the appeal.

(6) The Committee may request additional information or documentation from the recipient organization at any stage in the proceedings. The recipient organization's response to the Committee must be submitted, in writing, within 15 calendar days of receipt of the request.

(7) If a request for a hearing is granted, the Committee will provide the recipient organization with written instructions and will afford the parties the opportunity to present their respective positions to the Committee.

(8) The Chairperson of the Committee, with the advice of the SBA's Office of General Counsel (OGC), will issue a final written decision within 30 calendar days of receipt of all information or within 30 calendar days of the completion of the hearing. Copies of the decision will be provided to the recipient organization, the AA/SBDC, the Grants Management Specialist, and the SBA Project Officer.

(9) Where a recipient organization's appeal to the Committee commences or is pending within 120 days of the end of the current budget period, the recipient organization has the right to request, in writing, that the matter be handled under an expedited appeal process. In such circumstances, the Committee, by an affirmative vote of its membership, may expedite the appeals process to attain final resolution of a dispute before the anticipated issuance date of a new cooperative agreement.

(b) Programmatic (non-financial) disputes. (1) The SBDC Lead Center and the SBA District Office must make every effort to resolve any disputes that arise between the SBDC network and SBA involving non-financial, programmatic issues. If the recipient organization is not satisfied with the resolution, it may, by written request to the AA/SBDC, seek reconsideration of the programmatic dispute within 30 calendar days. When a recipient organization requests reconsideration of a programmatic dispute, the appropriate Program Manager will forward a written summary of the dispute, including comments from the SBDC Lead Center Director, the SBA District Office, and all other pertinent background information to the AA/SBDC within 15 calendar days of SBA's receipt of the request.

(2) The AA/SBDC will transmit a final, written decision to the recipient organization, the Lead Center Director, the SBA project officer, and the SBA District Office within 30 calendar days of the receipt of such documentation, unless the recipient organization agrees to an extension of time.

32. Revise §130.700 to read as follows:

§ 130.700 Suspension, termination, and non-renewal.

(a) General. After entering into a cooperative agreement with a recipient organization, the SBA may take, as it determines appropriate, any of the following actions based upon one or more of the circumstances listed in paragraph (b) of this section.

(1) Termination. AA/SBDC may terminate a cooperative agreement with a recipient organization at any point when the award no longer effectuates the Program goals or Agency priorities. A decision to terminate a cooperative agreement is effective immediately, as of the date of the notice of termination. A recipient organization may not incur further obligations under the cooperative agreement after the date of termination unless it has been expressly authorized to do so in the notice of termination.

(i) The SBA may make funds remaining under the cooperative agreement available to satisfy valid financial obligations incurred by the recipient organization prior to the date of termination. Award funds will not be available for obligations incurred after the effective date of termination, unless expressly authorized under the notice of termination. When a cooperative agreement has been terminated, the recipient organization has 120 days to submit final closeout documents to the SBA.

(ii) [Reserved]

(2) Non-renewal. The AA/SBDC may elect not to renew a cooperative agreement with a recipient organization at any point. In undertaking a non-renewal action, the AA/SBDC may either choose not to accept or consider any application for renewal from the recipient organization or the Agency may choose not to exercise option years remaining under the

cooperative agreement. When a cooperative agreement is not renewed, the recipient organization may continue to conduct project activities and incur allowable expenses until the end of the current budget period. If a recipient organization decides to not seek to renew its grant, it must notify the District Office and send a letter of intent to withdraw to the AA/SBDC as soon as it is feasible.

(3) Suspension. (i) The AA/SBDC may suspend a cooperative agreement with a recipient organization at any point. A decision to suspend a cooperative agreement is effective immediately. The suspension of a recipient organization begins on the date the notice of suspension is issued, and the period of suspension will last no longer than six months. At the end of the period of suspension or at any point during that period, the AA/SBDC will either reinstate the cooperative agreement or commence an action for termination or non-renewal.

(ii) The notice of suspension will recommend that the recipient organization cease work on the project immediately. The SBA is under no obligation to reimburse any expenses incurred by a recipient organization while its cooperative agreement is under suspension. Where AA/SBDC decides to lift a suspension and reinstate a recipient organization's cooperative agreement, the Agency may, at its discretion, choose to reimburse a recipient organization for some or all of the expenses it incurred in furtherance of project objectives during the period of suspension. However, there is no guarantee that the Agency will elect to accept such expenses, and recipient organizations incurring expenses while under suspension do so at their own risk.

(b) Cause. The AA/SBDC may terminate, elect not to renew, or suspend a cooperative agreement with a recipient organization for cause. The cause may include, but is not limited to the following:

- (1) Non-performance;
- (2) Poor performance;
- (3) Unwillingness or inability to implement changes to improve performance;
- (4) Disregard or material violation of regulations;

(5) Willful or material failure to comply with the terms of the cooperative agreement, including relevant OMB Circulars;

(6) Conduct of the SBDC Lead Center Director or other key personnel, reflecting a lack of business integrity or honesty, which is not properly addressed on the part of the recipient organization or sponsoring SBDC organizations;

(7) A conflict of interest on the part of the recipient organization, the SBDC service centers, the SBDC Lead Center Director, other key personnel, contractors or volunteers that causes a real or perceived detriment to a small business concern, a contractor, the SBDC network, including but not limited to, SBDC service centers, or SBA;

(8) Improper use of Federal funds;

(9) Failure of a Lead Center or its service centers to consent to audits, examinations, certification reviews, or to maintain required documents or records;

(10) Failure to implement recommendations from the audits or examinations within one year of notification of deficiencies;

(11) Failure to implement recommendations from accreditation reviews within the time frame recommended by the accreditation committee and established by the AA/SBDC;

(12) Failure of the SBDC Lead Center Director to work at the SBDC Lead Center on a full-time basis;

(13) Failure to promptly suspend or terminate the employment of an SBDC Lead Center Director, Service Center Director, or other key personnel, contractors, or volunteers upon receipt of knowledge or written information by the recipient organization and/or SBA indicating that such individual has engaged in conduct which may result or has resulted in a criminal conviction or civil judgment that would cause the public to question the SBDC's integrity. The SBDC Lead Center Director (or other appropriate official in the SBDC network), when making the decision to suspend or terminate such an employee, must consider the magnitude of the behavior, the

repetitiveness of the conduct, and the remoteness in time of the behavior underlying any conviction or judgment;

(14) Failure to maintain adequate client service facilities or service hours; and

(15) Any other action that materially and adversely affects the operation or integrity of an SBDC or the SBDC Program.

(c) Administrative procedure for suspension, termination, and non-renewal. These procedures apply to termination, non-renewal, and suspension of cooperative agreements with recipient organizations.

(1) Taking action. When the Program Manager has reason to believe there is cause to suspend, terminate, or non-renew a cooperative agreement with a recipient organization, either based on his/her own knowledge or upon information provided by other parties, the AA/SBDC may undertake an enforcement action by issuing a written notice of suspension, termination, or non-renewal to the recipient organization. The effects of such notice are addressed in paragraph (a) of this section.

(2) Notice requirements. Each notice of suspension, termination, or non-renewal will set forth the specific facts and reasons for the AA/SBDC's decision and will include reference to the appropriate legal authority. The notice will also advise the recipient organization that it has the right to request an administrative review of the decision to suspend, terminate, or non-renew its cooperative agreement in accordance with the procedures set forth in paragraph (d) of this section. The notice will be transmitted electronically, via email, to the recipient organization on the same date it is issued by mail.

(3) Relationship to Government-wide suspension and debarment. A decision by the AA/SBDC to suspend, terminate, or not renew an SBDC cooperative agreement does not constitute a non-procurement suspension or debarment of a recipient organization under Executive Order 12549, *Debarment and Suspension*, and SBA's implementation of OMB regulations at 2 CFR part 2700. However, a decision by the AA/SBDC to undertake a

suspension, termination, or non-renewal enforcement action with regard to a particular SBDC cooperative agreement does not preclude or preempt the Agency from also taking action to suspend or debar a recipient organization for purposes of all Federal procurement and/or non-procurement opportunities.

(d) Administrative review of suspension, termination and non-renewal actions. When the AA/SBDC has suspended, terminated, or elected not to renew a cooperative agreement, the recipient organization has the right to request an administrative review of the enforcement action. Administrative review of the AA/SBDC's enforcement actions will be conducted by the Associate Administrator for Entrepreneurial Development (AA/ED).

(1) Format. There is no prescribed format for a request for an administrative review of an SBA enforcement action. While a recipient organization has the right to retain legal counsel to represent its interests in connection with an administrative review, it is under no obligation to do so. Formal briefs and other technical forms of pleading are not required. However, a request for an administrative review of an SBA enforcement action must be in writing, should be concise and logically arranged, and must at a minimum include the following information:

- (i) Name and address of the recipient organization;
- (ii) Identification of the relevant SBA office/program (i.e., Office of Small Business Development Centers/Small Business Development Center Program);
- (iii) Cooperative agreement number;
- (iv) Copy of the notice of suspension, termination, or non-renewal;
- (v) Statement discussing why the recipient organization believes the SBA's actions were arbitrary, capricious, an abuse of discretion, and/or otherwise not in accordance with the law or governing regulations;
- (vi) Identification of the specific relief being sought (e.g., lifting of the suspension);
- (vii) Statement as to whether the recipient organization is requesting a hearing, and if so, the reasons why it believes a hearing is necessary; and

(viii) Copies of any documents or other evidence the recipient organization believes support its position.

(2) Service. Any recipient organization requesting an administrative review of an SBA enforcement action must submit copies of its request (including any attachments) to:

(i) AA/SBDC; and

(ii) the Associate General Counsel for Procurement Law.

(3) Timeliness. To be considered timely, the AA/ED must receive a request for an administrative review from the recipient organization within 30 days of the date of the notice of termination, non-renewal, or suspension. Any request for administrative review received by the AA/ED more than 30 days after the date of the notice of suspension, termination, or non-renewal will be considered untimely and will be rejected without being considered.

(i) In addition, if the AA/ED does not receive a request for an administrative review within the 30-day deadline, then the decision by the AA/SBDC to suspend, terminate, or non-renew a recipient organization's cooperative agreement will become the final Agency decision on the matter.

(ii) [Reserved]

(4) Standard of review. In order to have the suspension, termination, or non-renewal of a cooperative agreement reversed on an administrative review, a recipient organization must successfully demonstrate that the SBA enforcement action was arbitrary, capricious, an abuse of discretion, and/or otherwise not in accordance with the law or governing regulations.

(5) Conduct of the proceeding. Each party must serve the opposing party with copies of all requests, arguments, evidence, and any other filings it submits pursuant to the administrative review. Within 30 days of the AA/ED receiving a request for an administrative review, the AA/ED must also receive the SBA's arguments and evidence in defense of its decision to suspend, terminate, or non-renew a recipient organization's cooperative agreement. If the SBA fails to provide its arguments and evidence in a timely manner, the administrative review will be

conducted solely on the basis of the information provided by the recipient organization. After receiving the SBA's response to the request for an administrative review or after the passage of the 30-day deadline for filing such a response, the AA/ED will take one or more of the following actions, as applicable:

(i) Notify the parties whether the AA/ED has decided to grant a request for a hearing.

(ii) Direct the parties to submit further arguments and/or evidence on any issues, that she/he believes require clarification.

(iii) Notify the parties that the AA/ED has declared the record to be closed and therefore will refuse to admit any further evidence or argument.

(iv) Within 10 calendar days of declaring the record to be closed, provide all parties with a copy of the AA/ED's written decision on the merits of the administrative review.

(6) Request for hearing. The AA/ED will only grant a request for a hearing if she/he concludes that there is a genuine dispute as to a material fact that cannot be resolved except by the taking of testimony and the confrontation of witnesses. If the AA/ED grants a request for a hearing, they will set the time and place for the hearing, determine whether the hearing will be conducted in person, via telephone or virtually, and identify which witnesses will be permitted to give testimony.

(7) Evidence. The recipient organization and SBA each have the right to submit whatever evidence they believe is relevant to the matter in dispute. No form of evidence will be permitted unless a party has made a substantial showing, based upon credible evidence and not mere allegation, that the other party has acted in bad faith or engaged in improper behavior.

(8) Decision. The decision of the AA/ED will be effective immediately as of the date it is issued. The decision of the AA/ED will represent the final Agency decision on all matters in dispute on administrative review. No further relief may be sought from or granted by the Agency. If the AA/ED determines that the SBA's decision to suspend, terminate, or non-renew a cooperative agreement was arbitrary, capricious, an abuse of discretion, and/or otherwise not in

accordance with the law, she/he will reverse the Agency's enforcement action and direct the SBA to reinstate the recipient organization's cooperative agreement.

(i) Where an enforcement action has been reversed on administrative review, the SBA will have no more than 10 calendar days to implement the AA/ED's decision. However, to the extent permitted under the applicable OMB Circulars, the SBA reserves the right to impose such special conditions in the recipient organization's cooperative agreement as it deems necessary to protect the Government's interests.

(ii) [Reserved]

33. Revise §130.800 to read as follows:

§ 130.800 Oversight of the SBDC Program.

(a) The AA/SBDC and designees will monitor the SBDC's performance and its ongoing operations under the cooperative agreement to determine if the SBDC is making effective and efficient use of program funds for the benefit of the small business community.

(b) The District Office is the primary contact for the coordination of the delivery of services to the small businesses in each area of service.

(c) The AA/SBDC may change the primary contact for coordination at any time and will notify the recipient organization of such a change in a timely manner.

34. Revise §130.810 to read as follows:

§130.810 SBA review authority.

(a) Site visits. The AA/SBDC and designees will coordinate with, and provide written advance notice to, the SBDC Lead Center Director when conducting periodic programmatic reviews/visits to the recipient organization, Lead Center, SBDC service center organizations, and other service locations. The purpose of these review/visits is to verify compliance with the cooperative agreement, analyze, assess, and evaluate performance management regarding its SBDC activities, and if necessary, make recommendations for improved service delivery.

(b) SBA examinations. The SBA designees shall perform a biennial programmatic and financial examination of each SBDC network.

(c) Accreditation program. (1) When extending or renewing a cooperative agreement of an SBDC, SBA shall consider the results of the examinations and accreditation reviews. See 15 U.S.C. 648(k)(3)(A).

(i) The Small Business Act provides that the Administration may provide financial support, by contract or otherwise, to the association for the purpose of developing a SBDCs accreditation program. See 15 U.S.C. 648(k)(2).

(ii) SBDC networks must be reviewed for accreditation purposes and receive accreditation periodically, as negotiated between the AA/SBDC and the accreditation committee of the recognized association.

(iii) If an SBDC does not receive accreditation, the SBA may initiate the non-renewal or termination procedure pursuant to §130.700.

(iv) The statute at 15 U.S.C. 648(k)(3)(B) states the SBA may not renew or extend any cooperative agreement with a SBDC unless the center has been approved under the accreditation program conducted pursuant to this section, except that the AA/SBDC may waive such accreditation requirement, at his or her discretion, upon a showing that the center is making a good faith effort to obtain accreditation.

(2) The AA/SBDC and/or designee will participate in the deliberations of the accreditation committee.

(d) Audits. The examinations by the SBA will not serve as a substitute for audits required of Federal recipients under the Single Audit Act of 1984 (31 U.S.C. 7501) or applicable OMB guidelines (see 2 CFR part 200, subpart F) nor will such internal review substitute for investigations conducted by the SBA Office of Inspector General under the authority of the Inspector General Act of 1978 (Pub. L. 95-452, 92 Stat. 1101) as amended (see §130.830(b)).

35. Revise §130.820 to read as follows:

§ 130.820 Records and recordkeeping.

(a) Records. (1) The recipient organization will ensure that all financial and programmatic records, whether prepared by itself or another entity, are adequately maintained in accordance with Federal regulations in order to corroborate its performance and financial reports to the SBA, as well as to support SBA examinations or other audits. These records must include adequate documentation to support the expenditures claimed and activities performed under the cooperative agreement. The documentation should provide the means to verify proper separation of costs among various Federal awards and non-Federal spending. See also 2 CFR 200.333 through 200.337.

(2) The recipient organization will ensure complete and accurate detailed financial and programmatic documentation by all SBDC service center organizations and service centers. The recipient organization will monitor and oversee its SBDC service center organizations and SBDC service centers each budget period to ensure compliance with the OMB guidelines and regulations. See 2 CFR part 200, subpart D.

(i) The recipient organization and Lead Center will ensure that:

(A) All funds received throughout the SBDC network, both Federal and non-Federal, including program income, are properly accounted for, adequately safeguarded, accurately reported, and properly used to further program objectives.

(B) Each SBDC service center organization has reviewed all charges made to its SBDC accounts, including program income, to ensure that they are allowable.

(ii) The recipient organization's Lead Center monitoring and oversight activities must include annual site visits to all its SBDC service center organizations. The Lead Center will document its review procedures. These review procedures must ensure that SBDCs are in compliance with the terms and conditions of the cooperative agreement. The Lead Center will also document the results of annual reviews of the financial and program records of its SBDC service center organizations.

(3) The recipient organization must keep records on the amount, source, and purpose of all funding under the overall management of the SBDC network, including Federal programs.

(b) Availability of records. (1) All SBDC network records must be made available to the SBA for review upon request.

(2) All SBDC network records, financial and programmatic, must be maintained for a period of three years following the date SBA accepted the annual performance report and final financial status report from the recipient organization.

(3) The recipient organization will maintain sufficiently detailed program and financial documentation to facilitate transition and provide continuous SBDC services when changes occur in SBDC service center organizations, as well as to support reviews and audits authorized by the SBA.

36. Add §130.825 to read as follows:

§ 130.825 Reports.

(a) General. The recipient organization will submit consolidated performance and financial reports for the SBDC network to the SBA for review. These reports will reflect actual SBDC network activity and accomplishments pertinent to the funding periods. Report formats will be specified in the annual notice of funding opportunity. See also 2 CFR 200.327 through 200.329.

(b) Frequency. (1) Recipient organizations that have been in the Program for more than three years must submit financial and programmatic performance reports 30 calendar days after completion of six months of operation each budget year.

(2) recipient organizations that have been in the Program for fewer than three years must submit financial and programmatic performance reports 30 calendar days after completion of each quarter for the first three years.

(3) The final report from recipient organizations must be submitted in accordance with the notice of funding opportunity and terms and conditions.

(c) Electronic marketing reports. Lead Centers are responsible for reporting their consolidated network performance data quarterly to the SBA. The format of the reports will be designated in the notice of funding opportunity. Lead Centers must ensure that the data is submitted to the SBA within the timeframe stipulated and that the data is accurate and complete.

(d) Performance reports. (1) The quarterly and semiannual performance reports will address, in a brief narrative, the SBDC's major activities and objectives. The reports should include a discussion on the progress toward achieving those objectives.

(2) Final performance reports should include an overall summary of effort expended to deliver the core services described in the cooperative agreement for the full budget period. A discussion of performance measurements achieved and an explanation of those objectives or measurements not met should be included. Performance reports should be a summary of the activities, events or achievements by reportable category with an accompanying management analysis.

(e) Financial reports. The recipient organization will provide a semi-annual and final financial report to the SBA as required by the notice of funding opportunity and the cooperative agreement, in accordance with 2 CFR part 200. It is the responsibility of the recipient organization to prepare and certify financial reports sent to the SBA for completion and accuracy.

37. Revise §130.830 to read as follows:

§ 130.830 Audits and investigations.

(a) Audits -- (1) Pre-award reviews. New applicant organizations will be subject to a pre-award sufficiency review. The purpose of a pre-award review is to verify the adequacy of the accounting system, the suitability of proposed costs, and the nature and sources of proposed matching funds, as well as to verify the programmatic viability contained within applicant organization's proposal.

(2) Interim or final audits. The recipient organization or the SBA may conduct SBDC network audits.

(i) Recipient organization must comply with the Single Audit Act (31 U.S.C. 7501) and applicable OMB Circulars (2 CFR part 200).

(ii) The SBA Office of Inspector General (OIG) or its agents may conduct, supervise, or coordinate the SBA's audits, which may, at SBA OIG's discretion, be audits of the SBDC network. In such instances, the SBA will conduct audits in compliance with Government Auditing Standards (GAS) (GAO-18-568G) and applicable OMB Circulars (2 CFR part 200).

(b) Investigations. The SBA may conduct investigations to determine whether any person or entity has engaged in acts or practices constituting a violation of the Small Business Act, any rule, order, or regulation in this part issued under that Act, or any other applicable Federal law.

38. Add §130.840 to read as follows:

§ 130.840 Closeout procedures.

(a) General. The purpose of closeout procedures is to ensure that the program funds and property acquired or developed under the SBDC cooperative agreement are fully reconciled and transferred seamlessly between recipient organizations, SBDC service center organizations, or other Federal programs. The responsibility of conducting closeout procedures is vested with the recipient organization whose cooperative agreement is not being renewed. The procedures should be documented and accomplished in accordance with the applicable property standards and the provisions of this part.

(b) Supplies and equipment. Supplies and equipment acquired with funds under the cooperative agreement must be accounted for at closeout.

(c) Intellectual property. (1) In accordance with the applicable property standards, intangible property and items subject to copyright that are purchased or developed under the cooperative agreement must be accounted for at closeout.

(2) Inventory and documentation of intellectual property must be collected by the Lead Center for close out. In circumstances where SBA is not renewing the cooperative agreement, the recipient organization must provide an intellectual property inventory and the support documentation to the SBDC clearinghouse and to the District Office for disposition instructions.

(d) Responsibilities -- (1) Recipient organizations. When an SBDC cooperative agreement is not being renewed, regardless of cause, the recipient organization will ensure the following steps are taken in their closeout process and perform the necessary inventories and reconciliations prior to submitting the final annual financial report.

(i) An inventory of the SBDC property must be compiled and evaluated. An asset evaluation final report accounting for the property, equipment, and the aggregate of usable supplies and materials must be provided to the Program Manager.

(ii) Program income balances must be reconciled, and unused program income transferred to the Lead Center from SBDC service center organization accounts.

(iii) Client counseling and training records, paper and electronic, must be compiled to facilitate an SBA program closeout review.

(iv) Financial records will be compiled to facilitate an SBA closeout financial examination.

(2) Close out actions. Recipient organizations that terminate SBDC service center organization agreements will perform the close out actions in paragraphs (d)(1)(i) through (iv) of this section to ensure the safeguard of program resources under the cooperative agreement.

(3) SBA. Upon receipt of the final financial report from a non-renewing recipient organization, the AA/SBDC will issue disposition instructions to the former recipient organization as described in paragraph (e) of this section.

(e) Final disposition. (1) The final financial status report from the recipient organization must include the information identified in the inventory process and identify any program income collected from the SBDC network.

(2) The AA/SBDC will issue written disposition instructions to the recipient organization providing:

(i) The name and address of the entity or agency to which property and program income must be transferred;

(ii) A date by which the transfer must be completed;

(iii) Actions to be taken regarding property and program income;

(iv) Actions to be taken regarding program records such as client and training files; and

(v) Authorization to incur costs for accomplishing the transfer. Such costs may, when authorized, be applied to residual program income or Federal or matching funds.

Isabella Casillas Guzman

Administrator

[FR Doc. 2022-25012 Filed: 12/12/2022 8:45 am; Publication Date: 12/13/2022]